

12 October 2022

At 5.00 pm

Local Planning Panel



Agenda

1. **Disclosures of Interest**
2. **Confirmation of Minutes**
3. **Development Application: 26-28 and 34 Pirrama Road, Pyrmont - D/2021/1445**
4. **Development Application: 360 Victoria Street, Darlinghurst - D/2021/1531**
5. **Development Application: 657-657A Botany Road, Beaconsfield - D/2021/1335**
6. **Report to the Local Planning Panel - Status of Applications**
7. **Proposed Schedule of Local Planning Panel Meetings for 2023**



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1. Register to speak by calling Secretariat on 9265 9702 or emailing secretariat@cityofsydney.nsw.gov.au before 12.00 noon 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.

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

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

Item 1.

Disclosures of Interest

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

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

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

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

Item 2.

Confirmation of Minutes

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

Meeting of 31 August 2022

Item 3.**Development Application: 26-28 and 34 Pirrama Road, Pyrmont - D/2021/1445**

File No.: D/2021/1445

Summary

Date of Submission:	7 December 2021 Amended documentation 4 March 2022, 14 March 2022, 13 May 2022 and 14 July 2022
Applicant:	Mr Scott Barwick c/- SJB Planning (NSW) Pty Ltd
Architect/Designer:	Design 5 Architects
Developer:	Doltone House Group
Owner:	Department of Planning and Environment - Place Management NSW (PMNSW)
Planning Consultant:	SJB Planning
Cost of Works:	\$0.00
Zoning:	The site is located in the B3 Commercial Core zone. The proposed development is defined as a function centre. A 'function centre' is permissible in the B3 Commercial Core zone with consent.
Proposal Summary:	The subject application is an amending development application (DA) to allow an existing approved restaurant to be used for the dual purpose of a function centre for a maximum of 110 patrons. The proposed indoor hours of operation are 7.00am to 10.30pm, Monday to Thursday, 7.00am to 11.30pm, Fridays and Saturdays and 7.00am to 10.00pm, Sundays. The proposed outdoor hours of operation are 7.00am to 8.00pm, Monday to Sunday, although use of the outdoor area would still be required during all operating hours for access to the site amenities and for entry/exit to the premises. No building works are proposed as part of the application.

The approved restaurant is expected to open in September 2022. The restaurant has capacity for 166 patrons and includes 102 internal seats and 64 external seats. The approved base indoor hours of trade are 7.00am to 10.00pm, Monday to Sunday with a twelve (12) month trial for trading till 12 midnight. Outdoor seating is limited to trade until 8.00pm, with a twelve (12) month trial to 10.00pm, seven (7) days per week.

To be consistent with the already approved restaurant use, the accompanying Acoustic Report has recommended the following noise emission controls:

- All doors and windows on the southern, western and eastern facades remain closed at all times, and that the door and windows on the northern facade remain closed from 10.00pm.
- That the western terrace area be limited to 36 patrons from 7.00am to 6.00pm and 18 patrons from 6.00pm to 10.00pm; and that the northern terrace be limited to 28 patrons between 7.00am and 10.00pm.
- Between the hours of 10.00pm and 12 midnight, there is to be no use of the outdoor areas except by patrons leaving the premises or accessing the amenities.

Despite the Acoustic Report recommending use of the outdoor area until 10.00pm, the accompanying Plan of Management (PoM) states that use of the outdoor area will only be till 8.00pm, with the exception of allowing patrons to enter/exit the site and access the amenities. The PoM, however, is inconsistent with the Acoustic Report recommendations as it permits the northern terrace to be used by up to 28 patrons at any time, including after 10.00pm. This is also contrary to the proposed outdoor hours of operation which are till 8.00pm, 7 days a week. The PoM is also silent in terms of the number of patrons permitted within the western terrace area before 6.00pm.

The PoM also includes management practices that would be difficult to carry out and enforce, especially in terms of the maximum number of patrons permitted within different parts of the outdoor area.

The proposal is referred to the Local Planning Panel for determination as it represents contentious development, due to the receipt by the City of in excess of 25 unique submissions made by way of objection to the proposal.

The application was notified for a period of 42 days (i.e. 6 weeks) from 15 December 2021 to 26 January 2022. A total of 258 owners and occupiers were notified and 77 submissions were received, including 33 submissions in objection and 44 submissions in support. An online petition, containing 391 signatures, was also received in objection.

Key objections raised in the submissions relate to use and non-compliance issues associated with the existing Doltone House function centres, capacity of the proposed function centre, proposed hours of operation, cumulative impacts of the existing and proposed function centres, ineffectiveness of the PoM, inadequacy of the applicant's Acoustic Assessment, inability for adverse noise impacts to be properly managed or mitigated, ineffectiveness of security personnel, traffic impacts and amenity impacts on the surrounding residential properties especially in terms of noise. The matters raised in the submissions, including those in objection and those in support, are addressed in the body of the report.

Additional and amended information, including a traffic statement, updated plan of management (PoM) and amended acoustic report, were submitted during the assessment process in response to Council's concerns regarding cumulative traffic and noise impacts, and potential for adverse amenity impacts on nearby residential properties. Despite repeated requests for a more detailed and accurate acoustic assessment, the applicant has not adequately demonstrated that the proposal will not have significant noise impacts to neighbours.

The proposed function centre use is inconsistent with the relevant objectives of the Sydney LEP 2012 and is inconsistent with the Sydney DCP 2012 in terms of venue management, noise and residential amenity.

The proposal has failed to demonstrate that the proposed function centre use will not result in adverse impacts on the amenity of the nearby residential properties, that the proposed management practices will be capable of addressing amenity concerns, or that the site is suitable for the use. As such, the application is recommended for refusal.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979
- (ii) SEPP (Resilience and Hazards) 2021
- (iii) SEPP (Biodiversity and Conservation) 2021
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Harbour Foreshores and Waterways Area Development Control Plan (DCP) 2005
- (vi) Sydney DCP 2012

Attachments:

- A. Selected Plans
- B. Plan of Management

Recommendation

It is resolved that consent be refused for Development Application No. D/2021/1445 for the reasons outlined below.

Reasons for Recommendation

The application is recommended for refusal for the following reasons:

Unacceptable noise and amenity impacts

- (A) The proposed development is likely to result in unreasonable noise and amenity impacts, as it does not:
- (i) address the likely impacts of the development on the occupants of surrounding residential land uses;
 - (ii) consider the potential cumulative noise impacts from the proposed and existing late night premises in the area;
 - (iii) consider the potential impacts from patrons arriving and leaving the site en masse as is typical for a function centre use;
 - (iv) provide sufficient information to enable an accurate or detailed assessment of the potential noise impacts to be undertaken;
 - (v) satisfactorily demonstrate that the recommended noise emission restrictions are appropriate for the proposed use, will adequately protect the surrounding resident's amenity, or will be capable of being complied with; and
 - (vi) provide adequate measures to eliminate or control unreasonable noise impacts on nearby residential land uses.

The proposed development is therefore contrary to and fails to satisfy:

- (vii) Section 4.15(1)(b) of the Environmental Planning and Assessment Act, 1979.
- (viii) Clause 1.2 of the Sydney Local Environmental Plan 2012, including the aim at part 2(h) of the clause.
- (ix) Objective (b) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (x) Objective (h) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (xi) Objective (k) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (xii) Section 4.2.3.11 'Acoustic privacy' of the Sydney Development Control Plan 2012.

Unacceptable Plan of Management

- (B) The Plan of Management is unsatisfactory given that:
- (i) the proposed management practices would be difficult to carry out and enforce and not likely to be adequate;
 - (ii) it has not been demonstrated that noise and amenity impacts on residential properties could be effectively managed;
 - (iii) it has not been demonstrated that use of the outdoor areas could operate in accordance with the proposed recommended patron and operating hour restrictions;
 - (iv) the proposed management measures rely on constant monitoring of the outdoor terrace areas; and
 - (v) the proposed management practices seek to encourage patrons to behave in a particular manner but cannot guarantee or enforce the terms of the management plan.

The proposed development is therefore contrary to and fails to satisfy:

- (vi) Objective (c) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (vii) Objective (n) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.
- (viii) Section 3.2 'Plan of management requirements' at Schedule 3 of the Sydney Development Control Plan 2012.

Does not promote orderly development

- (C) The proposal does not promote the orderly use of the land, given that:
- (i) the dual use of the site, for a restaurant and function centre, would be difficult to manage given that each use would have different patron capacities, different hours of operation and different plans of management.

The proposed development is therefore contrary to and fails to satisfy:

- (ii) Object (c) at Clause 1.3 of the Environmental Planning and Assessment Act 1979.

Site unsuitable for the development

- (D) The proposed development has not satisfactorily demonstrated that:
- (i) the site is suitable for the development given its proximity to sensitive residential land uses.

The proposed development is therefore contrary to and fails to satisfy:

- (ii) Section 4.15(1)(c) of the Environmental Planning and Assessment Act, 1979.

- (iii) The B3 Commercial Core zone objectives of the Sydney Local Environmental Plan 2012.
- (iv) Objective (a) at Section 3.15 'Late Night Trading Management' of the Sydney Development Control Plan 2012.

Impacts on the public domain

(E) The proposal has the potential to impact negatively on the amenity of the street and public domain, given that:

- (i) it has not been demonstrated that there will be no queuing on the footpath.

The proposed development is therefore contrary to and fails to satisfy:

- (ii) Objective (a) at Section 3.2.2 'Addressing the street and public domain' of the Sydney Development Control Plan 2012.

Not in the public interest

(F) The proposal is unsatisfactory having regard to the submissions made in objection; and is contrary to the public interest.

The proposed development is therefore contrary to and fails to satisfy:

- (i) Section 4.15(1)(d) of the Environmental Planning and Assessment Act, 1979.
- (ii) Section 4.15(1)(e) of the Environmental Planning and Assessment Act, 1979.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 11 in DP 883135 and is known as 34 Pirrama Road, Pyrmont. The site is irregular in shape with an area of approximately 448sqm. The site has a primary street frontage of 34 metres to Pirrama Road to the south-west and direct frontage to Jones Bay Wharf to the north-east. A portion of the development site is also located on the adjoining Jones Bay Wharf site at Lot 2 in DP 1050360 and Lot 22 in SP 69951, which is known as 26-28 Pirrama Road, Pyrmont.
2. The site contains a single storey (double height) federation brick and timber building known as the former Arrow Marine Building. The building was originally constructed as a garage/warehouse for the adjacent Jones Bay Wharves and has previously been used as an office premises.
3. The building has approval for use as a licensed restaurant with indoor and outdoor seating (D/2020/942 as amended). The building is contained to 34 Pirrama Road, while the northern portion of the outdoor area and site entry/exit are located over 26-28 Pirrama Road, Pyrmont. The works associated with the restaurant have recently been completed and it is understood that the restaurant is expected to open in September 2022.
4. The south-west building elevation fronting Pirrama Road includes four (4) former garage door openings. The openings include glazing, inset behind the original roller shutters, and provide views into and out of the building. Two (2) access doors, with frontage to Pirrama Road, are sited to the northern portion of the building and are flanked by two window openings. The north-east elevation, fronting Jones Bay, contains four (4) double doors opening onto the northern terrace area. The north-east (shortest) elevation contains full height double doors which open outwards to the western terrace area. Retractable awnings, attached to the building, provide all-weather protection to the northern and western terrace areas.
5. The surrounding area is characterised by a mixture of land uses, primarily being commercial (cafes, restaurants, function centres and offices) and residential. To the north is Jones Bay Wharf, including the Doltone House function centre located at 26-32 Pirrama Road. To the north-east, opposite Jones Bay Wharf, are multi-unit residential buildings including the recently constructed 'Revy building'. To the east, on the adjoining site, is commercial office space occupied by Google. Development to the south and south-west is dominated by high-rise residential apartment building, and to the west, on the opposite side of Pirrama Road, is the escarpment face. Further to the north-west, at 25 Pirrama Road, is a four (4) storey residential flat building known as "Macarthur". This building is located approximately 25m from the subject site.
6. The site is identified as a local heritage item (former garage including interiors, yard, wharf and seawall - I1250) but is not located in a heritage conservation area.
7. The site is located within the Pyrmont Point locality and a small portion of the site is identified as being subject to flooding.
8. Site visits were carried out on 1 March 2022 and 2 September 2022. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of the site and surrounds. Subject site shaded in blue and red, with the portion in red being located on the adjoining site at 26-28 Pirrama Road.



Figure 2: South-west building elevation viewed from Pirrama Road frontage



Figure 3: Site entry and exit viewed from Pirrama Road



Figure 4: View of the north-east and north-west elevations of the building including the northern and western outdoor terrace areas from within the site



Figure 5: View of the residential apartments on the opposite side of Pirrama Road from the enlarged outdoor terrace area located on the portion of the site located at 26-28 Pirrama Road



Figure 6: View towards the residential apartments on the opposite side of Pirrama Road and Jones Bay Wharf from the northern terrace area



Figure 7: View from the northern terrace area looking east towards the Google commercial offices



Figure 8: View of the site amenities located at the far end of the northern terrace



Figure 9: View of Jones Bay Wharf, including the existing function centres at 26-32 Pirrama Road, from the northern terrace area



Figure 10: View towards The Revy residential apartments at 8 Darling Island Road from the northern terrace area



Figure 11: View looking north-west along Pirrama Road from the Pirrama Road street frontage



Figure 12: View of the Macarthur residential apartments at 25 Pirrama Road from the front of the site.



Figure 13: View of the escarpment located on the opposite side of Pirrama Road.



Figure 14: View towards the subject site from the Macarthur residential apartments at 25 Pirrama Road



Figure 15: View of the internal fit-out of the subject premises

History Relevant to the Development Application

Development Applications

9. The following applications are relevant to the current proposal:
 - **P/2019/1853** – A Complying Development Certificate (CDC) was issued by Modern Building Certifiers on 3 September 2019 for the change of use of the office building to a licensed restaurant (indoors only) with a maximum patron capacity of 50 patrons and associated internal fit out works.
 - **HWC/2019/446** – A Heritage Works Confirmation (HWC) was issued on 6 January 2020 verifying that repair and maintenance works could be undertaken to the building without consent. The works included the removal of existing aluminium windows on the north-east and east elevations and replacement with reconstructed timber windows matching the surviving original windows on the east elevation.

- D/2020/942** - Development consent was granted on 11 December 2020 for the use and associated alterations and additions to the building for a licensed restaurant including works to provide outdoor seating (see Figure 16). The restaurant is expected to open in September 2022.

The restaurant has capacity for 166 patrons and includes 102 internal seats and 64 external seats. The approved base hours of trade for indoor are 7.00am – 10.00pm seven (7) days per week with a twelve (12) month trial for trading to 12 midnight. Outdoor seating is limited to trade until 8.00pm with a twelve (12) month trial to 10.00pm, seven (7) days per week.

The consent requires that all patrons must have an allocated seat and that the number and location of tables and chairs provided for seated dining must be in accordance with the approved floor plan at all times.

- D/2020/942/A** – A Section 4.55(1A) was approved on 5 August 2021 to delete part of condition 43 of the consent relating to BCA upgrades as compliance with the condition would require extensive works that would unreasonably alter the heritage building.
- B/2021/65** - As the appointed Principal Certifying Authority (PCA), the City of Sydney issued a Construction Certificate on 16 August 2021 for the works associated with D/2020/942 (as amended). A Part Occupation Certificate was issued by the City of Sydney on 4 August 2022.
- D/2020/942/B** - A Section 4.55(1) was approved on 6 April 2022 to amend the site address to include a portion of 26-28 Pirrama Road, Pyrmont and include additional plans in the stamped approved plan set (see Figure 17).

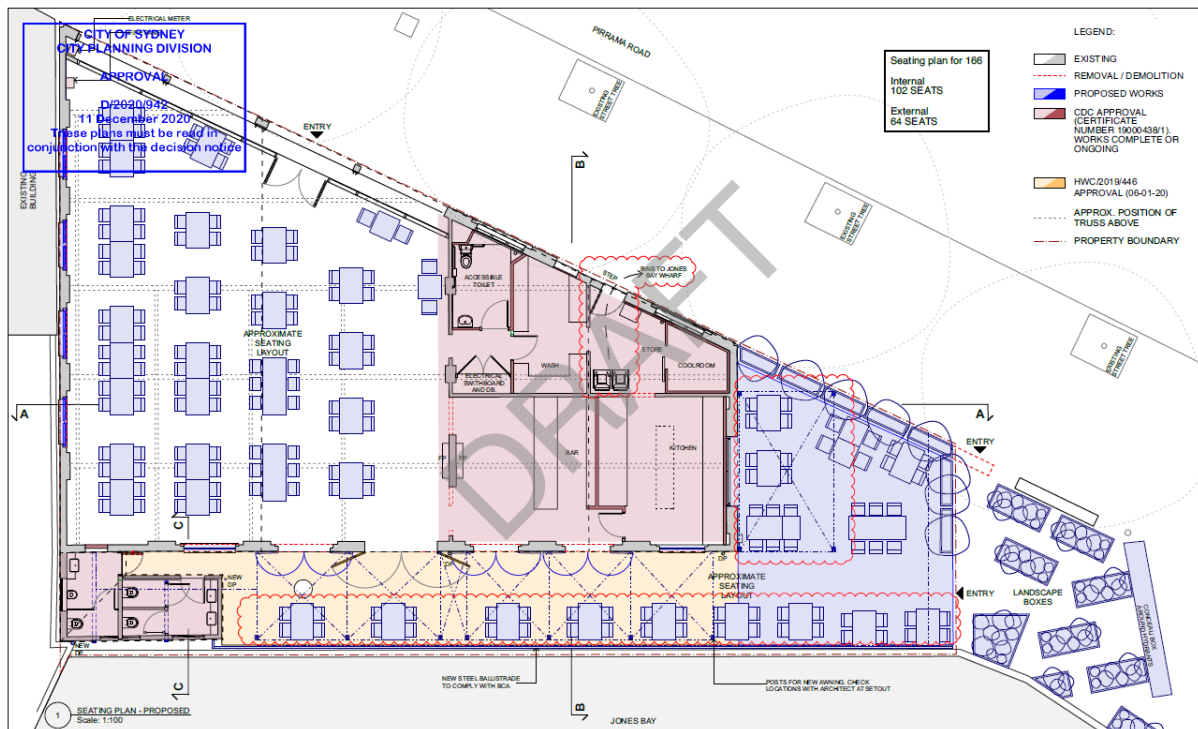


Figure 16: Extract of approved plan granted under D/2020/942, showing the approved indoor and outdoor seating layout

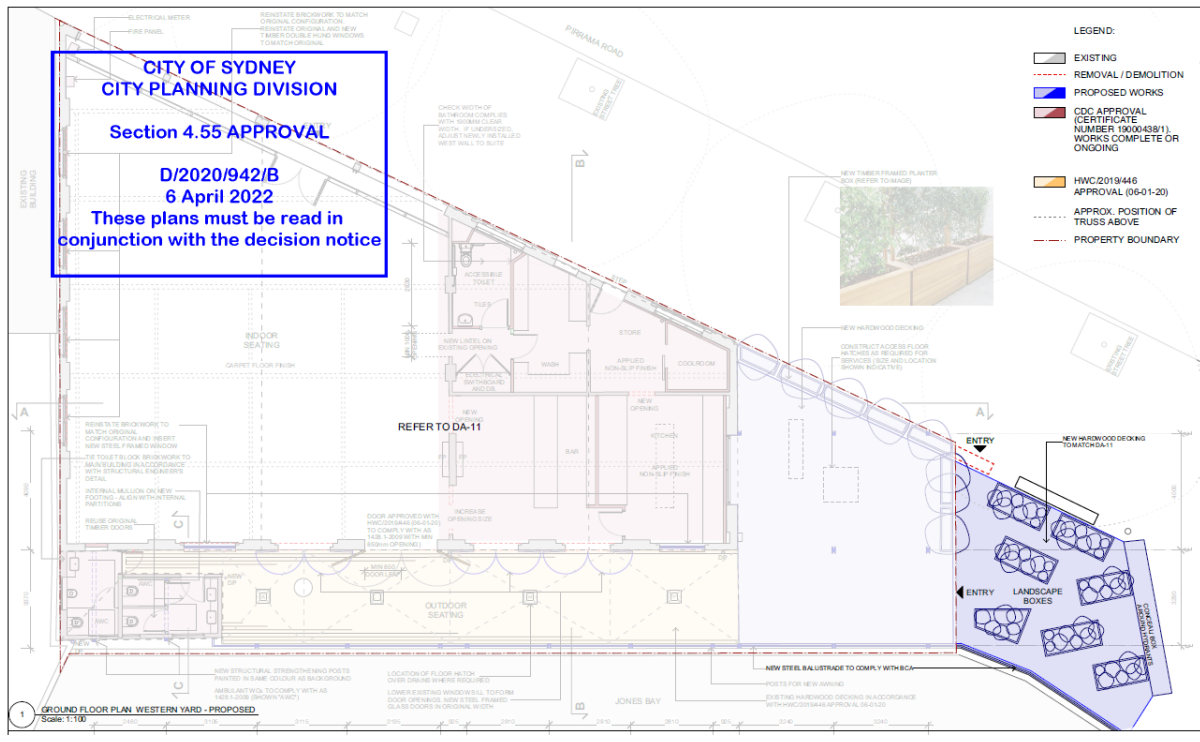


Figure 17: Extract of approved plan granted under D/2020/942, with the portion of the site located on 26-28 Pirrama Road shaded purple. This portion of the outdoor area contains landscape boxes which limits the useability of this area.

Compliance Action

10. The site has previously been subject to compliance action relating to unauthorised works to the building.
11. A complaint was received by Council on 16 June 2020 regarding the increase of the windows openings. Council staff conducted a site investigation. The investigation revealed that a CDC had been invalidly issued as the building is a Heritage Item under the Sydney LEP 2012. All work under the CDC to facilitate the change of use from an office to a restaurant had been completed at the time of the inspection. Works had also been undertaken to increase the windows openings on the northern and southern elevations without prior approval from Council.
12. A Stop Work Order and penalty infringement notice was issued for all works undertaken outside of HWC/2019/446. The compliance action was subsequently resolved when DA consent D/2020/942 was issued on 11 December 2020.
13. The City, as the appointed PCA for B/2021/65, further investigated potential non-compliance with the approved CC plans and conditions of D/2020/942 (as amended). All matters were resolved, and a Part Occupation Certificate was issued by the City of Sydney on 4 August 2022.
14. The previous compliance action is not relevant to the subject application.

Amendments

15. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information was sent to the applicant on 11 January 2022. The following was requested:
 - An amended Acoustic Report addressing matters relating to the use of the outdoor area and which considers the impacts of all patrons arriving and leaving the premises at the one time.
 - A Traffic Report and amended Acoustic Report assessing the cumulative impacts on the area from the proposed and existing late-night premises and function centres which currently all close at 12 midnight.
 - Details of how the bump out of sound systems, catering, etc, will work at the conclusion of a function, including details of loading and unloading operations.
 - An updated Plan of Management (PoM) addressing the above issues, including details of how impacts associated with patrons arriving and leaving the premises will be managed.
16. The applicant responded to the request on 4 March 2022 and submitted a covering letter and revised PoM, dated March 2022.
17. Following a review of the additional information by Council Officers, further correspondence was sent to the applicant on 7 March 2022 requesting that the outstanding issues identified in Council's correspondence of 11 January 2022 be addressed. Council officers did not accept that the difference between the approved restaurant use, and proposed function centre will be minimal and again requested that an amended Acoustic Report and Traffic Report assessing the cumulative impacts of the function centre be submitted.
18. The applicant responded on 14 March 2022 and submitted an updated Acoustic Report. On 13 May 2022, the applicant submitted a Traffic Statement and updated PoM, dated May 2022. The revised documentation also included a reduction to the maximum patron numbers from 130 to 110, and a reduction to the proposed hours of operation.
19. Following a review of the revised documentation by Council Officers, requests for further updated information were sent to the applicant on 29 June 2022 and 7 July 2022. The applicant was requested to clarify various management measures within the PoM, provide updated plans to reflect the reduced patron numbers, and address various concerns with the Acoustic Report.
20. The applicant responded on 14 July 2022. While some changes were made to the PoM (dated July 2022), no changes were made to the proposed plans or to the Acoustic Report. Despite repeated requests for an amended Acoustic Report, the applicant has shown no commitment to addressing the significant concerns raised by Council officers.
21. During the preparation of the assessment report, Council officers established that a portion of the development site was located on the adjoining Jones Bay Wharf site at 26-28 Pirrama Road, Pyrmont. Following confirmation from the applicant, the relevant property description has been updated to include Lot 2 in DP 1050360 and Lot 22 in SP 69951.

22. The final DA submission, as amended by the revisions summarised above, is the subject of this assessment report.

Proposed Development

23. The amending development application seeks consent for the following:
- An additional use of the premises as a function centre. The premises is currently permitted to be used as a licensed restaurant (under development consent D/2020/942 as amended). It is proposed that the premises would operate either as a licensed restaurant or as a function centre, but that both uses would not operate at the same time.
 - A maximum capacity of 110 patrons when being used as a function centre, including indoor seating for 110 guests (although the plans show indoor seating for 130 patrons). No outdoor seating is proposed when being used as a function centre (although the plans do nominate outdoor seating).
 - Indoor base operating hours of 7.00am to 10.00pm, Monday to Sunday, with a trial period of twelve (12) months for extended indoor hours of 7.00am to 10.30pm, Monday to Thursday and 7.00am to 11.30pm, Fridays and Saturdays.
 - Outdoor operating hours of 7.00am to 8.00pm, Monday to Sunday with the following capacity restrictions:
 - (i) Western terrace area: 18 persons between 6.00pm and 8.00pm.
 - (ii) Northern terrace area: 28 persons at any time including after 8.00pm.
 - Use of the western outdoor terrace area after 8.00pm as an exit thoroughfare.
 - Use of the northern outdoor terrace area after 8.00pm as a thoroughfare to the amenities serving the site.
24. The approved plan for the restaurant use (Figure 16) suggests that the area shown in orange is the "northern terrace" and the area shown in purple is the "western terrace". The plans and accompanying reports submitted as part of the subject DA, however, do not define the "western terrace" and "northern terrace" areas (see Figure 19 and Figure 20).
25. The additional use requires no building works and is to utilise the existing fit-out for the approved restaurant. The internal seating would be reconfigured when used for functions and the outdoor seating would be removed and stored within the Doltone House premises at Jones Bay Wharf.

26. The applicant has advised that a modification application to amend Condition 2 of DA 2020/942 (as amended) is proposed to be lodged following determination of the subject DA. Condition 2 of the current approval requires that the location of the tables and chairs must be in accordance with the approved floor plan at all times. The applicant has advised that the modification is required to provide flexibility in the table and seating configuration. A draft Notice of Modification has been prepared by the applicant and accompanies the DA.
27. Plans of the proposed development are provided below.

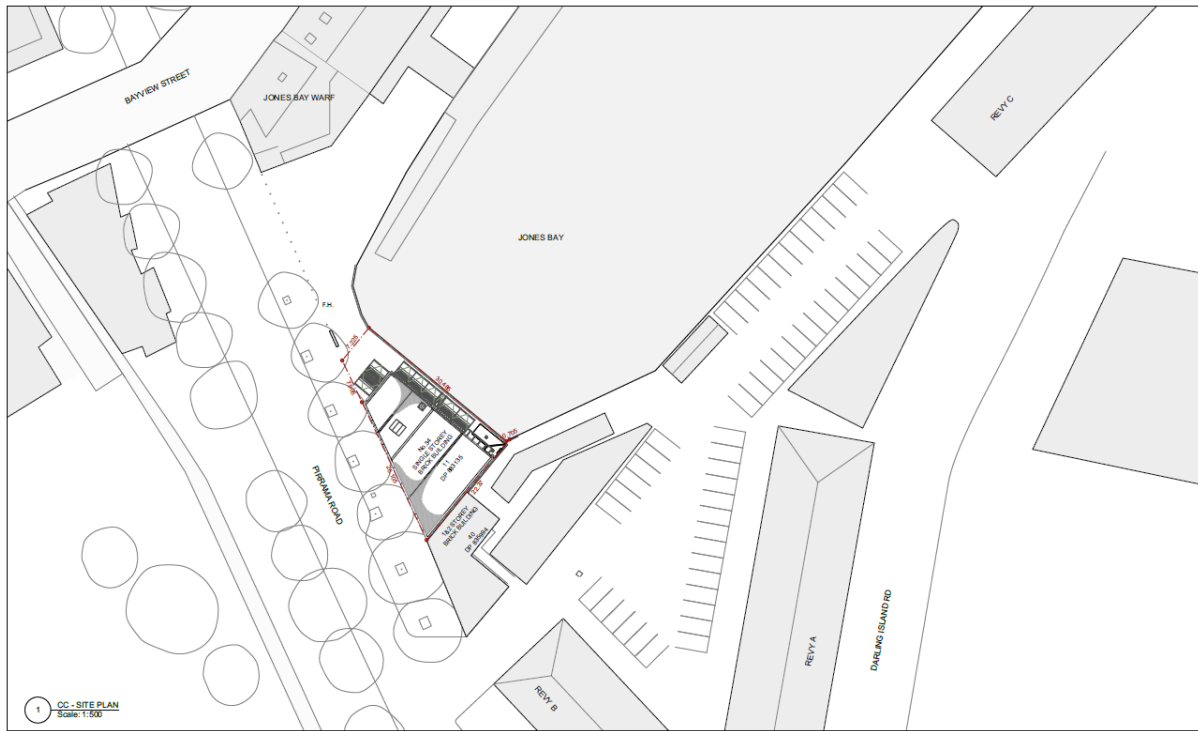


Figure 18: Proposed site plan

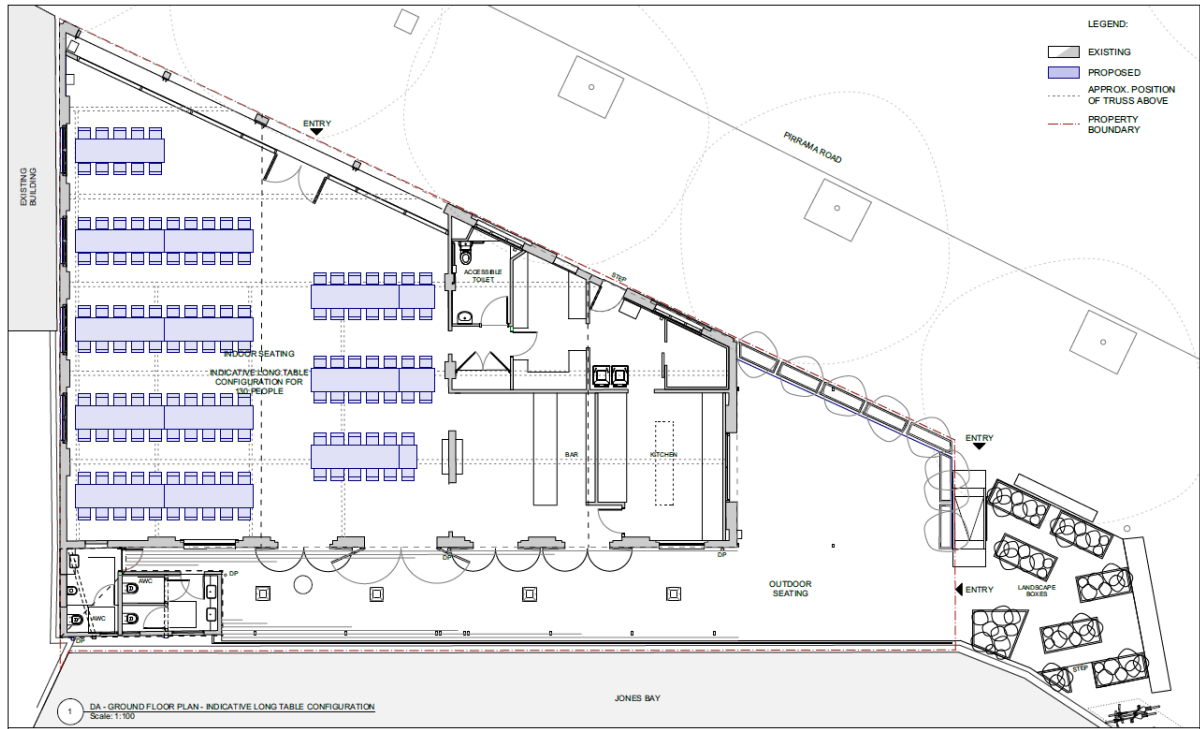


Figure 19: Proposed seating plan option A, noting that the configuration is for 130 instead of 110 patrons

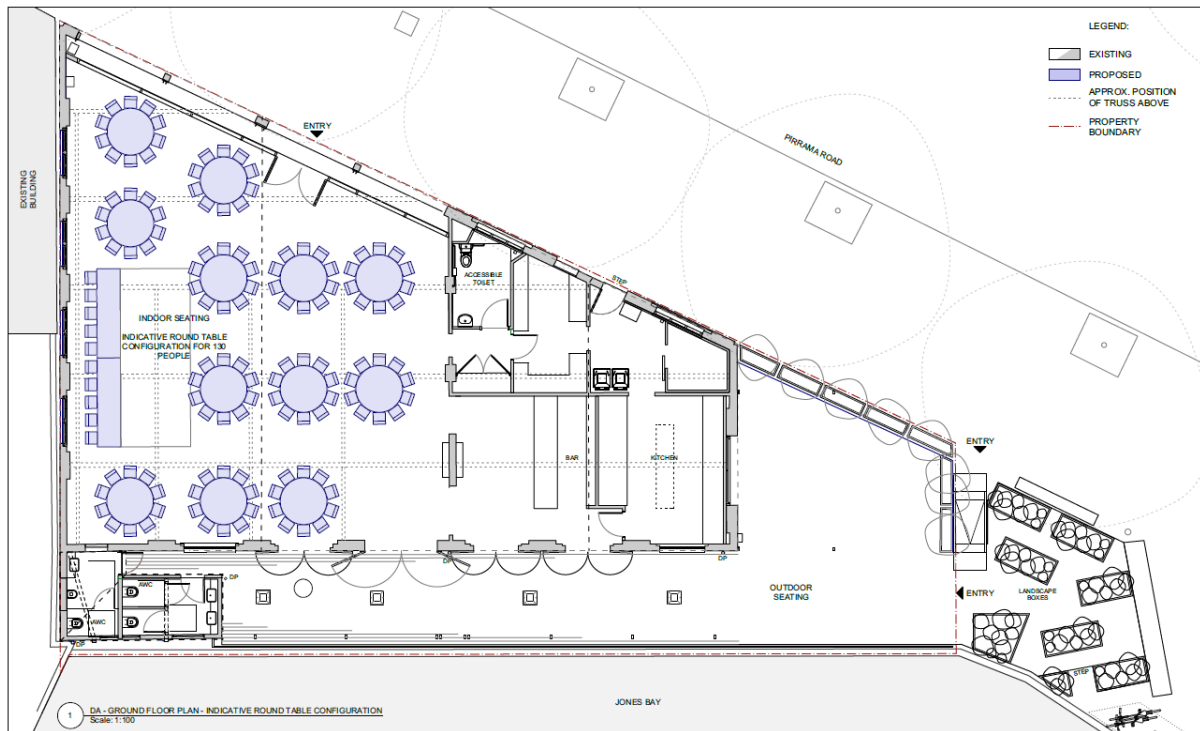


Figure 20: Proposed seating plan option A, noting that the configuration is for 130 instead of 110 patrons

Assessment

28. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

29. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land 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.
30. Given that the proposal seeks to introduce an additional use to an already approved food and drink premises and that no building works are proposed, there will be no increased risk to human health.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 10 Sydney Harbour Catchment

31. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP (formerly subject to Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005). The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
32. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. The site is also located within the Foreshores Waterways Area. The objectives of the SEPP are therefore also applicable to the proposed development.
33. The matters to be considered under the SEPP, as relevant to the proposed development, are outlined below.

Compliance Table – matters for consideration		
Development Control	Compliance	Comment
10.10 Sydney Harbour Catchment	Yes	<p>The additional land use would have no additional impacts on the hydrological, ecological, and geomorphological processes or health of the catchment.</p> <p>The additional land use would have no additional impact on the visual quality of Sydney Harbour.</p>

Compliance Table – matters for consideration		
10.11 Foreshores and Waterways Area	Yes	The additional land use would have no additional impacts on any natural assets or the unique environmental or visual qualities of Sydney Harbour and its foreshores. Public access to and along the foreshore would not be altered by the proposal.
10.12 Heritage Conservation	Yes	The additional land use does not require any building works and would not prevent the heritage listed building from being protected and conserved.
10.19 Biodiversity, ecology and environment protection	Yes	The existing stormwater management system would continue to service the building. The additional land use would have no effect on the quality of water entering the waterways.
10.20 Public access to and use of foreshores and waterways	Yes	The existing public access arrangements to and along the foreshore would not be altered by the proposal.
10.22 Interrelationship of waterway and foreshore uses	Yes	The proposal would not change the existing land uses in the surrounding area or have any impact on the use of the waterway.
10.23 Foreshore and waterways scenic quality	Yes	The additional land use would not result in any detrimental impacts to the visual quality of Sydney Harbour and its foreshore and would not alter the character of the area.
10.24 Maintenance, protection and enhancement of views	Yes	The development would maintain views (including night views) to and from Sydney Harbour and would not adversely impact on any views from a public place or heritage item.

Sydney Harbour Foreshores and Waterways Area DCP 2005

34. The Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 contains guidelines that are to be applied to all land-based developments. Consideration against the relevant guidelines is provided below.

Compliance Table		
Development Control	Compliance	Comment
5.2 Foreshore Access	Yes	The additional land use would not alter public access to and along the foreshore.
5.4 Built form	Yes	The additional use requires no building works and is to utilise the existing fit-out for the approved restaurant. As such, there would be no change to the built form.

Local Environmental Plans

Sydney Local Environmental Plan 2012

35. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Partial compliance	<p>The site is located in the B3 Commercial Core zone. The proposed development is defined as a function centre and is permissible with consent in the zone.</p> <p>A function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.</p> <p>The proposed function centre does not meet the objectives of the zone.</p> <p>Refer to the Discussion section for further details.</p>

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 9m is permitted for the portion of the site containing the existing building. The north-west portion of the site, adjoining

Provision	Compliance	Comment
		<p>the forecourt area of 26-28 Pirrama Road, permits a maximum height of 18m.</p> <p>The proposal is for an additional use only.</p> <p>Given that no building works are proposed, the proposal retains the existing building height of approximately 7.8m.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 1:1 is permitted for the portion of the site containing the existing building. The north-west portion of the site, adjoining the forecourt area of 26-28 Pirrama Road, permits a maximum floor space ratio of 1.25:1.</p> <p>The proposal does not include any building works and therefore does not seek to change the existing gross floor area.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is a local heritage item (I1250) being a "Former garage including interiors, yard, wharf and seawall (formerly 17A Pirrama Road)" but is not located within a heritage conservation area. The building is commonly known as the Arrow Marine Building.</p> <p>The site is adjacent to the following heritage items:</p> <ul style="list-style-type: none"> I1200 (Local) – Eastern escarpment and palisade fence, above Pirrama Road". I1249 (Local) – 26-32 Pirrama Road – "Jones Bay Wharf" (Wharf 60, Berths 19–20) including wharf, sea wall, sheds and interiors, lower and elevated road and industrial artefacts.

Provision	Compliance	Comment
		<ul style="list-style-type: none"> I1251 (State) - 38-42 Pirrama Road – Former Royal Edward Victualling Yard warehouses “A” and “B” including interiors, wharf, sea wall, yard and industrial archaeology. I1252 (State) – 38-42 Pirrama Road – Naval Warehouse, Darling Island Former Royal Edward Victualling Yard warehouse “C” including interiors, wharf, seawall, yard and industrial artefacts. <p>The proposal is for an additional use of the premises only and will not have a detrimental impact on the heritage significance of the heritage items.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
Other land uses	Yes	<p>The approved restaurant use is defined as a 'retail premises'. Under clause 7.7 of the LEP, the maximum number of car parking spaces permitted for the existing restaurant is 1 space for each 50sq.m of gross floor area of the building used for the retail use.</p> <p>While a maximum car parking rate is not identified for function centres, it should be noted that the DA is not seeking to supersede the restaurant but rather add an additional permitted land use. Given that the restaurant use would continue, and that Council's car parking controls specify a maximum, rather than a</p>

Provision	Compliance	Comment
		minimum, parking rate, provision of no on-site parking facilities is considered acceptable and appropriate given the physical and heritage constraints associated with the site.
Division 3 Affordable housing		
7.13 Contributions for affordable housing	Yes	<p>The site is located in the Ultimo-Pyrmont area and is subject to the requirements of Clause 7.13 of the Sydney LEP 2012.</p> <p>Pursuant to sub-clause 7.13(1)(b), development that involves a change of use of more than 60 square metres of existing floor area of a building, is required to make a contribution towards affordable housing.</p> <p>As the DA is recommended for refusal, there is no need to consider the applicability of any contribution under this clause.</p>

Development Control Plans

Sydney Development Control Plan 2012

36. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

37. The site is located within the Pyrmont Point locality. The Pyrmont Point locality statement encourages active ground floor uses and seeks to conserve waterfront views and vistas from the public domain. The proposed development is generally in keeping with the unique character of the Pyrmont locality as the proposal protects the historic building, provides a use with active public views of the waterfront and conserves existing public views.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Partial compliance	<p>The proposal is for an additional use of the premises only and does not include any building works.</p> <p>Objective (a) at Section 3.2.2 requires that development contributes to the</p>

Provision	Compliance	Comment
		<p>activity, safety, amenity and quality of streets and the public domain.</p> <p>It has not been satisfactorily demonstrated that the proposed function centre use will contribute to the safety and amenity of the street and public domain. Furthermore, it has not been demonstrated that there will be no queuing issues on the footpath while staff serve canapes and drinks within the recommended maximum capacity limitations.</p> <p>Refer to the Discussion section for further details.</p>
3.9 Heritage	Yes	<p>The site is a local heritage item (I1250) but is not located within a heritage conservation area. The site is also located adjacent to and near several local and State listed heritage items.</p> <p>The application proposes no building works and seeks to utilise the existing approved fit out of the building.</p> <p>Given no changes are proposed to the building, the additional use is considered to have no further impacts upon the heritage significance of the building.</p>
3.11 Transport and Parking	Yes	<p>The site currently does not provide any parking facilities or vehicular access. Due to the physical and heritage constraints associated with the site, no parking facilities or vehicular access is proposed.</p> <p>Bike parking spaces for new developments are to be provided in accordance with the rates set out in Table 3.5 of this section.</p> <p>Given that the proposed use is not included in Table 3.5, the applicant would be required to provide bike facilities to accommodate Council's mode share target for trips by bike as described in the Cycle Strategy and Action Plan 2007-2017.</p>

Provision	Compliance	Comment
		<p>Had the recommendation of this assessment been for approval, a condition for bike parking facilities would have been recommended.</p> <p>As per clause 3.11.1 of the DCP, a Traffic Assessment is required to address the potential impact of the development on surrounding movement systems where the proposed development is in the opinion of the consent authority, likely to generate significant traffic impacts.</p> <p>Given that the additional use of the premises as a function centre had the potential to impact on traffic and parking in the vicinity of the site, the applicant was requested to addresses.</p> <p>Refer to the Discussion section for further details.</p>
3.12 Accessible Design	Yes	The application proposes no building works and seeks to utilise the existing approved fit out of the building. Subject to compliance with the restaurant consent (D/2020/942 as amended), the proposal would be capable of complying with the accessible design requirements.
3.13 Social and Environmental Responsibilities	Yes	Had the recommendation of this assessment been for approval, conditions would have been recommended in relation to reporting and notification of incidents, installation and use of CCTV, and compliance with a Plan of Management.
3.14 Waste	Yes	<p>Waste is proposed to be stored internally on site and, when required, moved to the existing central waste location within Jones Bay wharf as with the management approved for the premises when it is in restaurant mode.</p> <p>Had the recommendation of this assessment been for approval, a</p>

Provision	Compliance	Comment
		condition would have been recommended to ensure the proposed development complied with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.15 Late Night Trading Management	No	<p>The premises is not located within a late night trading area and the use is defined as a category B premises.</p> <p>The accompanying Acoustic Report and Plan of Management have not adequately demonstrated that the proposed use of the premises as a function centre will not have adverse impacts on the amenity of the nearby residential properties.</p> <p>This matter forms part of the reasons for refusal of the application.</p> <p>Refer to the Discussion section for further details.</p>
3.16 Signage and Advertising	Yes	<p>The application does not include any signage.</p> <p>In accordance with Section 3.16.1, a signage strategy is required as the site is a heritage item.</p> <p>Had the recommendation of this assessment been for approval, a condition would have been recommended requiring that a signage strategy to be submitted and approved by Council prior to issue of an Occupation Certificate.</p>

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.3 Amenity		
4.2.3.11 Acoustic privacy	No	The accompanying Acoustic Report has not adequately demonstrated that the proposed use of the premises as a

Provision	Compliance	Comment
		<p>function centre will not have adverse impacts on the amenity of the nearby residential properties.</p> <p>This matter forms part of the reasons for refusal of the application.</p> <p>Refer to the Discussion section for further details.</p>

Discussion

Objectives of the B3 Zone

38. The assessment below considers whether the proposal is consistent with the objectives of the B3 Commercial Core zone.

- (a) **Objective:** To provide a wide range of retail, business, office, entertainment, community and other suitable land uses that serve the needs of the local and wider community.

Response: It has not been demonstrated that the site is suitable for the development given its proximity to sensitive residential land uses and that the use is likely to result in adverse impacts on the amenity of the nearby residential properties.

The proposal therefore does not achieve this objective. This matter forms part of the reasons for refusal of the application.

- (b) **Objective:** To encourage appropriate employment opportunities in accessible locations.

Response: The premises is already approved as a restaurant. While a breakdown of staff numbers has not been submitted, it is anticipated that the staff employed in the restaurant would also work in any function centre. On this basis, it is anticipated that the proposal would not result in further employment opportunities.

The site, however, is in an accessible location and it is recognised that any commercial use of the premises does result in employment opportunities.

The proposal is therefore generally consistent with this objective.

- (c) **Objective:** To maximise public transport patronage and encourage walking and cycling.

Response: Due to the attire that guests typically wear to functions, they are unlikely to walk or cycle to the venue. The most common form of travel by patrons is likely to be by car (private or public) and less likely by public transport.

However, given that the site is serviced by good public transport and is within waking distance of the City, the proposal is considered to be generally consistent with this objective.

- (d) **Objective:** To promote uses with active street frontages.

Response: The proposed additional use of the site as a function centre does not involve any building works and would continue to provide an active street frontage to Pirrama Road.

Late Night Trading Hours

39. The late-night trading management controls provided at Section 3.15 of the Sydney Development Control Plan (DCP) assist in encouraging diverse late-night trading, while managing the effects of these uses on the neighbourhoods in which they are located.
40. Late trading hours are considered by the Council to be a privilege subject to demonstrated good management practices. Longer trading hours may be permitted where it is considered that there is capacity for more late night uses to operate in an area and where it has been demonstrated that the use will not create an adverse impact on surrounding sensitive land uses.
41. Late trading hours will also only be supported in circumstances where appropriate management measures have been developed and where these measures can be successfully carried out. This is particularly important for late night trading premises that have the potential to impact on the amenity of residential properties at night.
42. The DCP defines the proposed function centre as a 'Category B Premises'. The Late Night Trading Management provisions within the DCP also identify a hierarchy of three late night trading areas throughout the City of Sydney. The three types of late-night trading areas are Late Night Management Areas, City Living Areas and Local Centre Areas. The subject site is not located within one of the designated late night trading areas and therefore falls under 'all other areas' noted throughout the controls.
43. Base hours are the standard range of trading hours that a late-night trading premises is entitled to if an application is approved. Extended hours mean trading hours that may be approved above base hours on a trial basis. The base and extended hours that apply to a 'Category B' premises within 'all other areas' are provided in the following table:

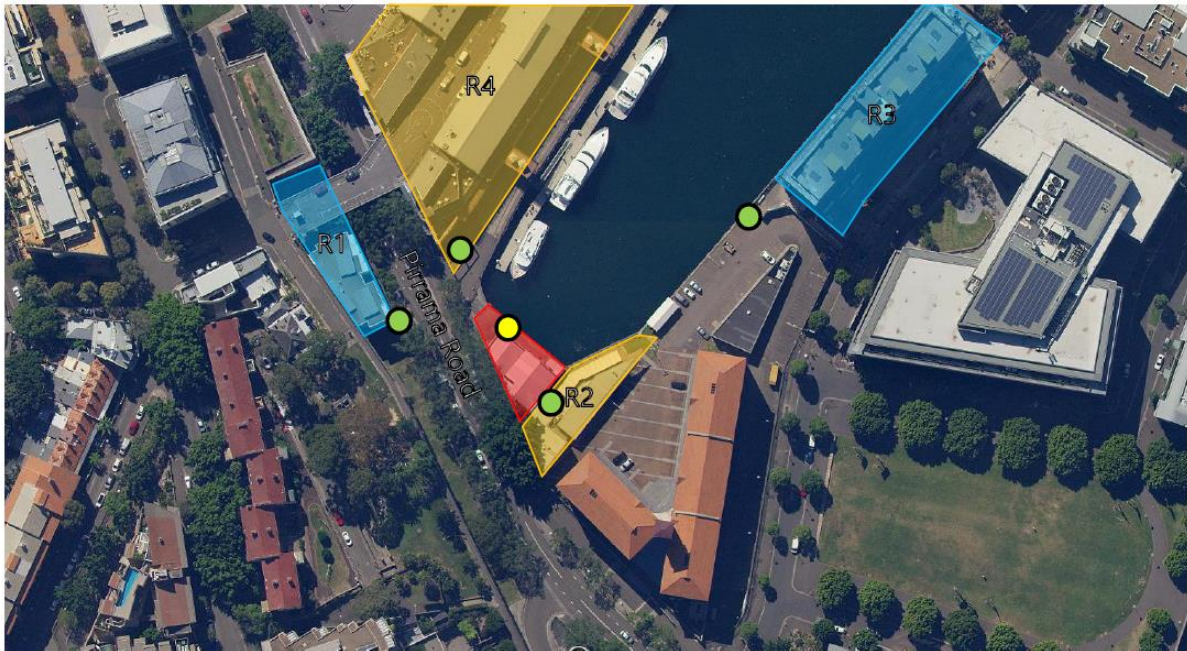
	All other areas – Category B	Applicant's proposed hours
Indoor trading hours	Base: 7.00am to 10.00pm Extended: 7.00am to 12 midnight	Base: 7.00am to 10.00pm Extended: 7.00am to 10.30pm, Monday to Thursdays 7.00am to 11.30pm, Fridays and Saturdays
Outdoor trading hours	Base: 7.00am to 8.00pm Extended: 7.00am to 10.00pm	Base: 7.00am to 8.00pm

44. As outlined above, under the DCP consideration may be given to the approval of base/permanent trading hours for indoor areas of 7.00am to 10.00pm and of base/permanent hours for the outdoor areas of 7.00am to 8.00pm. The base hours, however, are not automatically granted and any application must be considered on its merits. An approved premise is also eligible for consideration of extended indoor trading hours on a trial period basis between 7.00am and 12 midnight and extended outdoor trading hours been 7.00am and 10.00pm.
45. The DA, as originally submitted, proposed extended trading hours to 12 midnight, 7 days a week. As a result of concerns raised during the assessment process, the DA was amended and proposes indoor hours from 7.00am to 10.30pm, Monday to Thursday, from 7.00am to 11.30pm, Fridays and Saturdays, and from 7.00am to 10.00pm, Sundays. The proposed indoor hours fall within the extended hours identified in the controls. The proposed outdoor trading hours are between 7.00am and 8.00pm, Monday to Sunday. While no extended outdoor trading hours are proposed, the western terrace is intended to be used as the means of egress for patrons leaving the premises and the northern terrace will be used as a thoroughfare for patrons accessing the toilets which are located externally to the building.
46. Section 3.15.3 of the DCP includes matters that must be considered when determining applications for late night trading. In relation to the subject application, Council must be satisfied that:
- the location and context, including proximity to residential and other sensitive land uses, is appropriate for the proposed use;
 - there will be no unreasonable impacts on the amenity of the surrounding residential properties;
 - the premises can appropriately manage the impacts, especially in terms of noise;

- (d) there will be no unreasonable impacts arising from the closing times and patron dispersal, including any cumulative impact due to existing late night uses in the area; and
 - (e) a plan of management, demonstrating a strong commitment to good management of the operation of the business, particularly in relation to managing potential impacts on adjoining and surrounding land uses and premises, has been submitted and can be implemented.
47. The subject site is in close proximity to a number of residential uses which have the potential to be directly impacted by the proposed function centre use. The outdoor area is located approximately 25 metres from the nearest residential apartments to the north-west on the opposite side of Pirrama Road and is also the proposed entry/exit point for the building.
48. As discussed under the sub-headings 'Acoustic' and 'Plan of Management' in the sections below, the applicant has not satisfactorily demonstrated that the proposed function centre use will not unreasonably impact on the amenity of the nearby residential premises or that the proposed management practices will be capable of addressing the amenity concerns. For these reasons, it is recommended that the DA, including the proposed late-night trading, not be supported.

Acoustic Impacts

49. Section 4.2.3.11 of the DCP requires that a Noise Impact Assessment, prepared by a suitably qualified acoustic consultant, be submitted for uses which may affect the acoustic privacy of a nearby residential use.
50. An Acoustic Report, prepared by Acoustic Logic (revision 2 dated 10 March 2022), has been submitted to assess the impacts of the proposed development on the following nearest noise receivers:
- (a) Receiver 1: No. 25 Pirrama Road, Pyrmont being an existing multi-storey residential flat building located approximately 25 metres to the north-west on the opposite side of Pirrama Road.
 - (b) Receiver 2: No 38 Pirrama Road, Pyrmont being an existing multi-storey office building on the adjoining site to the south-east.
 - (c) Receiver 3: No. 8 Darling Island Road, Pyrmont being an existing multi-storey residential flat building located approximately 90 metres to the north-east.
 - (d) Receiver 4: No 32 Pirrama Road, Pyrmont being the commercial premises located at Jones Bay Wharf to the north.
51. The location of the four noise receivers is shown in Figure 21 and the relationship between the subject site and the nearest residential properties is shown in Figure 22.



● Unattended Noise Monitor
● Attended Noise Measurements
Site Map and Noise Monitor Location
 (Source: Six Maps NSW)

■ Residential Receiver
■ Commercial Receiver

Figure 21: Map showing the nearest receivers (subject site in red, commercial receivers shown in yellow and residential receivers shown in blue) (Source: Acoustic Logic)



Figure 22: Plan showing the location of the nearest sensitive receiver ('Macarthur' apartments at 25 Pirrama Road) in relation to the subject site.

52. The current approved restaurant use (D/2020/942 as amended) permits a maximum of 102 patrons internally and 64 patrons externally. The subject DA seeks approval for a total of 110 patrons, with the potential for all 110 patrons to be indoors at any given time. The acoustic assessment concludes that the increase in internal patron numbers would be approximately 1dB(A) and would not result in any significant noise impacts on surrounding receivers.
53. The noise report further concludes that the internal and external use of the premises for functions will be consistent with the already approved restaurant use provided that the following noise emission controls are imposed:
- (a) All doors and windows on the southern, western and eastern facades remain closed at all times.
 - (b) The doors and windows on the northern facade remain closed from 10.00pm.
 - (c) The external patron numbers are limited to:
 - (i) Northern terrace area: 28 patrons between 7.00am and 10.00pm; and
 - (ii) Western terrace area: 36 patrons from 7.00am to 6.00pm and 18 patrons from 6.00pm to 10.00pm.
 - (d) Between the hours of 10.00pm and 12 midnight, there are to be no external patrons except for patrons leaving the premises or accessing the amenities.
54. Provided the above restrictions are adhered to, the applicant's acoustic assessment concludes that noise emissions will be consistent the existing development consent for the restaurant (D/2020/942 as amended) and that the proposed development will comply with Council's noise emission restrictions.
55. The proposal fails to recognise, however, that the use of the premises as a function centre and that of a restaurant would operate differently. Unlike a restaurant use, which typically involves the staggered arrival and departure of patrons, patrons to a function centre typically arrive en masse at a specified commencement time and depart en masse at the conclusion of the function. Patron numbers at a restaurant are also likely to peak at mealtimes and gradually reduce up to the closing time, while it is assumed that the maximum capacity is maintained at all times during a function.
56. As a result, the following concerns have not been adequately considered:
- (a) Conditions have been imposed on the approved restaurant use requiring that all external patrons (i.e. a maximum of 64) must have an allocated seat and that the number and location of the outdoor tables and chairs provided for outdoor dining must be in accordance with the approved floor plan at all times. The approved restaurant floor plan provides outdoor tables of 4 persons, with two of the tables accommodating 6 persons. The function centre use, however, does not provide outdoor seating and therefore does not have the same limitations in terms of groups sizes.

In this regard, it has not been demonstrated that the noise created by 46-64 people within the same group/party is consistent with the noise created by 64 people (split into small groups of 4 to 6 per table) having dinner. While the acoustic assessment recommends that there be no use of the western terrace area after 10.00pm, it also acknowledges that the western terrace area must be used by patrons leaving the site. Unlike a restaurant, patrons attending functions typically arrive and depart at a similar time. As such, up to 110 patrons could exit via the western terrace at the same time, meaning that maximum patron numbers specified for the western terrace (located directly opposite the sensitive residential uses) would be exceeded. The acoustic assessment, however, is silent in terms of the likely impacts arising from up to 110 patrons departing the premises at the conclusion of a function.

- (b) The internal noise levels are likely to vary depending on the type, volume and duration of music played. A function may include the playing of music until the end of a function and may also include use of microphones and other equipment that is not typically used when operating a restaurant.
- (c) While the acoustic assessment recommends that all door and windows remain closed from 10.00pm, it also acknowledges that patrons must use one of the northern doors and terrace to access the amenities for the premises. While the approved restaurant use permits 28 seated patrons within the northern terrace area until 10.00pm (on a trial basis), with each table with the northern area limited to a maximum of 4 persons, the submitted Plan of Management (PoM) indicates that the function centre would permit groups of up to 28 patrons within the northern terrace area at any time, including after 10.00pm. Section 5.2 of the Acoustic Report also states that 28 patrons within the northern terrace at any time (including between 10.00pm and 12 midnight) would be in line with the existing approved DA acoustic assessment. The consent granted for the restaurant, however, only permit outdoor trading until 10.00pm on a trail basis.
- (d) The acoustic report does not include any recommendations in relation to the maximum number of permitted patrons within the northern terrace after 10.00pm and has not demonstrated that a group of 28 function centre guests within the northern terrace after 10.00pm (as proposed by the PoM) would be acceptable, noting that the restaurant use does not permit any outdoor dining after 10.00pm.
- (e) Furthermore, the acoustic report has not demonstrated that use of the one of the northern door openings after 10.00pm, together with 28 patrons outdoors, would comply with the required noise restrictions. It has not demonstrated that a group of 28 guests would generate the same noise levels as 28 seated guests, in tables of maximum of 4 people, as approved under the restaurant use. It has also not demonstrated that prior to 10pm, that a group of 28 patrons attending a function would generate the same noise levels as 28 seated guests, in tables of a maximum of 4 people, as approved under the restaurant use.
- (f) The acoustic assessment has not considered the cumulative noise levels from patrons departing the proposed and other existing function centres in the area. Nor has it addressed whether there is capacity for an additional late-night use or whether an additional late-night use in the locality would have unreasonable noise impacts on residential properties in the area.

57. Given that the acoustic assessment has not adequately demonstrated that the premises can operate without affecting the amenity of nearby residential properties and that there is a history of complaints associated with other late night uses and function centres in the area, it is considered by Council officers that the proposal has not demonstrated that the premises is suitable for the proposed function centre use.
58. Council's officers are also of the opinion that the proposed function centre use does not have comparable acoustic impacts to the already approved restaurant (D/2020/942 as amended) and consider that the restrictions that apply to the restaurant use will be inadequate in controlling the amenity impacts from a function centre. For these and other reasons outlined above, the application is not supported.

Plan of Management

59. Section 3.15.5 of the DCP requires that a Plan of Management (PoM) be submitted as part of the DA. Schedule 3.2 of the DCP outlines the information that a PoM should contain. This includes details of all measures that will be taken to ensure that the amenity impacts that may result from the operation of the premises are minimised.
60. The applicant has provided a PoM for the function centre use with a proposed maximum capacity of 110 persons. To minimise disturbance from the outdoor terrace area, the PoM proposes:
 - (a) No seating is provided on the outdoor areas when the site is being used as a function centre.
 - (b) Prior to 8.00pm the western terrace area is able to be used for greeting of guests on arrival and the serving of drinks and canapes. Once served guests will be encouraged to join the function within the premises.
 - (c) Prior to 8.00pm, function centre staff will monitor guest numbers on the western terrace and northern terrace.
 - (d) Guest numbers on the western terrace after 6.00pm are not to exceed 18 persons. At no time is there to more than 28 guests on the northern terrace.
 - (e) Should numbers on the western and northern terrace be nearing the capacity outlined in (d) above, staff will direct guests to join the function indoors, or if capacity permits, move to the northern terrace area (maintaining the maximum permitted at any time of 28 patrons on the northern terrace).
 - (f) Limiting numbers on the western terrace will be prioritised by staff to ease the closure of this area to guests after 8.00pm other than its use as an exit thoroughfare. Should guests access the western terrace other than as an exit path staff will direct them back to the northern terrace or indoors.
 - (g) The limitations on the use of the external terrace areas will be communicated to clients at the time of booking a function.
 - (h) After 8.00pm the western deck will not be used for any purpose other than as an exit thoroughfare for guests leaving the premises having exited the internal space via the western terrace.
 - (i) The northern deck will not be provided with seating when the premises is being used for functions but will provide access to the amenities for the premises.

- (j) With the arrival of large groups of guests, staff are to ensure that they enter the premises and are seated as quickly and quietly as possible so as to not disturb the surrounding area.
 - (k) Between 10.00pm and 12 midnight, staff are to monitor guests leaving the premises and provide corrective advice to any guests in the immediate vicinity of the premises acting in a manner which may adversely impact on the surrounding area.
61. During the assessment process, the applicant updated the PoM in response to concerns raised by Council officers. Although additional management measures have been incorporated into the PoM, the following matters have not been satisfactorily addressed:
- (a) The PoM states that prior to 8.00pm, the terrace will be used to serve canapes and drinks to guests. In order to comply with noise emission restrictions, only 64 of the 110 guests would be permitted outdoors before 6.00pm (with 36 of the guests permitted within the western terrace area and 28 permitted in the northern terrace area) and between 6.00pm and 8.00pm, only 46 of the 110 guests would be permitted outdoors (with 18 of the guests permitted within the western terrace area and 28 permitted in the northern terrace area).

The submitted DA documentation, including the accompanying PoM, Acoustic Report and DA plans, do not define the “western terrace” and “northern terrace” areas. Furthermore, the application has not demonstrated that the capacity limitations (which have been established for the seated restaurant use) are appropriate for the proposed function centre use.
 - (b) The PoM fails to explain how the maximum nominated patron numbers will be managed, especially given that there will be no outdoor seating and that guests will be able to move freely throughout the terrace area. The wrap around terrace also provides no physical barrier between the northern and western terrace areas (see Figure 4) and as such, it will not be possible to contain patrons to one particular area.
 - (c) It is proposed that the function centre staff will monitor guest numbers and will encourage guests to join the function within the premises once they have been served their drinks and canapes. While staff may encourage guests, there are no measures proposed that would guarantee that the maximum patron numbers will be complied with.
 - (d) The PoM states that the proposed method of checking that the maximum capacity has not been exceeded, will be determined by ensuring that no patron is admitted who is not assigned a seat. While this may be an appropriate method of ensuring that no more than 110 patrons are accommodated indoors, this method cannot be applied to the outdoor areas.
 - (e) The PoM states that guest numbers on the western terrace between 6.00pm and 8.00pm will not exceed 18 persons. The PoM, however, does not include any limitation on the number of guests within the western terrace prior to 6.00pm, which is contrary to the acoustic recommendations.

- (f) The PoM is unclear in terms of where the remaining guests (i.e. 46 guests prior to 6.00pm and 64 between 6.00pm and 8.00pm) will be located while canapes and drinks are being served. Unlike a restaurant use, guests attending functions will typically arrive around the designated start time. As guests must move through the terrace area to access the building, this could create queuing issues on the footpath while staff serve canapes and drinks within the maximum capacity limitations.
 - (g) While the PoM proposes that the northern deck will provide access to the amenities for the premises, it also allows up to 28 patrons to gather in this area at any time. No measures, however, have been put in place to ensure that the northern terrace is used as a thoroughfare only or to ensure that the 28-person limit will not be exceeded.
 - (h) While it is proposed that after 8.00pm the western terrace area will not be used by patrons (other than at the completion of the function), it is unclear how this will be prevented if access must be maintained to the amenities and no physical barrier is provided between the western and northern terrace area.
 - (i) The proposed management measures outlined in the PoM rely on constant monitoring of the outdoor terrace areas by the function staff and it is unclear if this can realistically occur.
 - (j) The acoustic assessment requires that all doors and windows remain closed from 10.00pm. The PoM states that to facilitate access to the external amenities after 10.00pm, exit and entry will be via the eastern most doors which are closest to the external amenities. This suggests that prior to 10.00pm, patrons will be provided unrestricted access to the outdoor terrace via all four (4) door openings thus making it harder to monitor and restrict the number of outdoor patrons. Furthermore, it is unclear what measures will be put in place to ensure that the eastern doors will remain closed while not being used for access, especially during warmer weather periods.
 - (k) The outdoor seating, used in restaurant mode, is to be packed up and stored within the Doltone House premises at Jones Bay Wharf when a function is to be held. Details regarding table movements, between the subject site and the proposed storage location within Jones Bay Wharf, have not been provided and there is concern that pack-up/set-up activities may occur late at night or early in the morning.
 - (l) While the applicant has indicated that there is no need for the bump in and bump out of sound equipment, given that the restaurant is fitted with speakers, it is unclear if other external equipment or the like will be used for functions and if so, how and when this will be delivered and collected from the site.
62. The proposed and approved DA plans also indicate that the western portion of the terrace will be provided with landscape planter boxes that will restrict use of this area (see Figure 16, Figure 17, Figure 19 and Figure 20). An inspection of the site revealed, however, that the planter boxes have not been configured as shown on the plans and as a result, provides a larger outdoor area (see Figure 5). While the PoM states that guest numbers on the western terrace between 6.00pm and 8.00pm will not exceed 18 persons, the PoM is silent in terms of the maximum capacity prior to 6.00pm. Any proposal to increase the useable portion of the terrace would not be supported and is not supported by any documentation submitted by the applicant.

63. In addition to the concerns identified above, Council's Environmental Health Unit has advised that they would not support the serving of drinks and canapes within the terrace areas as it would create additional noise nuisances to the nearby residential properties. Supporting correspondence, provided by SJB Planning and dated 4 March 2022, indicates that "(n)o guests will be served or allowed to consume food or drinks outside after 8.00pm". This restriction, however, has not been included in the PoM and it is unclear what measures are being implemented to prevent guests from consuming drinks outdoors after 8.00pm.
64. The applicant is of the opinion that the impact of patron numbers cumulatively in function mode compared to restaurant mode is likely to be negligible. This is on the basis that in restaurant mode, tables could be included for multiple services each night, while in function mode patron numbers are capped.
65. While it is recognised that the approved restaurant use (D/2020/942 as amended) has a greater capacity (i.e. 102 indoors and 64 outdoors) and longer extended operating hours (i.e. between 7.00am and 12 midnight, Monday to Sunday for a trial period of one year), the function centre DA has not considered that the majority of patrons attending a function typically arrive and leave at around the same time in large numbers. In comparison, a restaurant use will have patrons arriving in smaller numbers over a longer period and guests will then depart with a similar dispersion rate. For these reasons, Council officers are of the opinion that a function centre use would cause more disruption and amenity impacts than a restaurant use.
66. The applicant was also requested to assess the cumulative noise levels from patrons departing the proposed and other existing function centres in the area, including the other function centre and restaurant uses within Jones Bay Wharf. This request was made given that there is a history of complaints in the area and that it is likely that the proposed function venue will result in further complaints from residents.
67. In response, the applicant altered the proposed extended trading hours from 12 midnight, 7 days a week, to 11.30pm on Fridays and Saturdays, 10.00pm on Sundays and 10.30pm on Mondays through to Thursdays. This is to offset the closing times from the other nearby function centres which trade till 12 midnight.
68. While the proposed trading hours have been reduced, the PoM does not satisfactorily demonstrate that the noise impacts on residential properties can be effectively managed as discussed earlier in this report. The PoM also includes limited details regarding the management of patrons when leaving the site. The PoM states that staff will at all times ensure that all people entering and leaving the premises do so in a manner that respects the nature of the surrounding locality, and that reasonable measures will be taken to ensure that the behaviour of patrons when entering or leaving the premises does not detrimentally affect the amenity of the neighbourhood. While it is recognised that amenity impacts are hard to manage near residential properties, compliance measures to support these statements are uncertain and would be difficult to implement.
69. If dual use of the premises for both a restaurant and function centre is approved, it would be logistically difficult for Council Rangers, the Local Police and residents to know what use is occurring at the premises on any given day and therefore monitor compliance with the relevant consent conditions. This would be especially difficult given that each use has different patron capacities, different hours of operation and different plans of management.

70. The objects of the Environmental Planning and Assessment Act 1979 (the Act) include "to promote the orderly and economic use and development of land". The application has not demonstrated that the dual use of the premises is orderly development under the Act. This matter therefore forms part of the reasons for refusal of the application.
71. For the reasons outlined in this sub-section of the report, the PoM has not demonstrated that the function centre use can be appropriately managed or that the proposed management measures will prevent any adverse impacts on nearby residential properties.

Traffic Impacts

72. A Traffic Statement, prepared by McLaren Traffic Engineering (reference: 220202.01FA dated 9 May 2022), has been submitted in response to Council officer's concerns relating to traffic impacts associated with patrons arriving and leaving the site, including the cumulative traffic impacts from other nearby function centres, and truck loading/unloading operations.
73. As a result of the concerns raised, the proposal has been altered to reduce the patron capacity from 130 to 110. The proposed trading hours have also been reduced so that the proposed function centre will close earlier than the other nearby function centres which currently close at 12 midnight.
74. Council's Transport and Access Unit has considered the Traffic Statement and has advised that from a technical point of view, the local road and transport network is capable of accommodating the proposed development. The site is well serviced by public transportation, car parking and pick-up zones, such that patrons leaving the function centre would have several transportation options to depart the area once a function has completed. These options are the same as those available to the approved restaurant use and include:
 - (a) Taxis and other rideshare services (including private hire buses): The current parking restrictions along the property frontage, including the 'No Parking' zones that apply between 6.00pm and 12 midnight, Thursday to Sunday, will adequately service all pick-up/drop-off activities.
 - (b) Light rail: The premises is located within a 5-minute walk of The Star Light Rail Station which provides a light rail service to Central Station.
 - (c) Bus: The adjacent bus stops on Pirrama Road provide access to the No. 389 bus route between The Star and Bondi Junction and also stops at Town Hall Station.
 - (d) Commercial car parks: The Jones Bay Wharf Wilson Car Park is located opposite the site and The Star Parking Station is within a 10-minute walk.
75. In relation to the loading/unloading operations, it is proposed that the same servicing arrangements that currently apply to the approved restaurant use, will be applied to the function centre. Provided the same loading/unloading arrangements are adopted for the function centre, Council's Transport and Access Unit anticipate that there would be no additional impacts. In the event that external equipment or the like was to be used for functions, however, it is likely that additional impacts associated with the unloading and loading would occur.

76. The Traffic Statement further states that patrons are not expected to arrive and depart the site all at the same time. Given functions typically occur over a 3-to-5-hour period, the traffic assessment states that patrons attending functions will arrive and depart at various times throughout the evening. While Council officers disagree that function centres and restaurants operate in the same manner, it is recognised that the proposed operating hours have been amended so that the proposed function centre will cease operating earlier than the surrounding function centres.
77. While Council's Transport and Access Unit have advised that the proposal is acceptable on traffic grounds, it is acknowledged that certain driver behaviour in the area is causing operational issues within the roadway and that these issues could be made worse with the addition of another function centre.
78. While the amended operating hours may assist with the departure of guests at the conclusion of a function, the amended hours would not prevent an additional 110 guests from arriving at the same time as other functions and could potentially contribute to existing operational issues with the roadway.
79. It should be noted that Council officer's concerns regarding potential adverse amenity impacts on nearby residential properties also still apply. This includes potential noise impacts associated with patrons departing the site at the conclusion of a function.

Pymont Peninsula Place Strategy

80. The first stage of the NSW Department of Planning 'Pymont Peninsula Place Strategy' (PPPS) was exhibited for public comment from 26 November 2021 to 4 February 2022. The exhibited master plans identify seven sub-precincts and provide clear, structured guidance on how each of the seven sub-precincts should look and feel in 20 years' time.
81. The subject site is located within the 'Darling Island' sub-precinct which is described as a harbour home of large commercial, cultural and entertainment destinations, alongside existing residential. The Darling Island sub-precinct Master Plan nominates an 'Entertainment and Cultural Precinct' around The Star Casino, Australian National Maritime Museum and Pymont Bay Park. The location was chosen because of its proximity to other entertainment areas (such as Harbourside, Cockle Bay and the CBD) as well as to existing and future public transport.
82. In relation to the subject site, the Master Plan include a harbour foreshore walk which connects Darling Harbour to Rozelle. The subject site sits within the proposed new foreshore walk (see Figure 23). Given that there are no works associated with the DA, the additional land use would have no impact on the delivery of the 'Darling Island' sub-precinct Master Plan or foreshore walk.

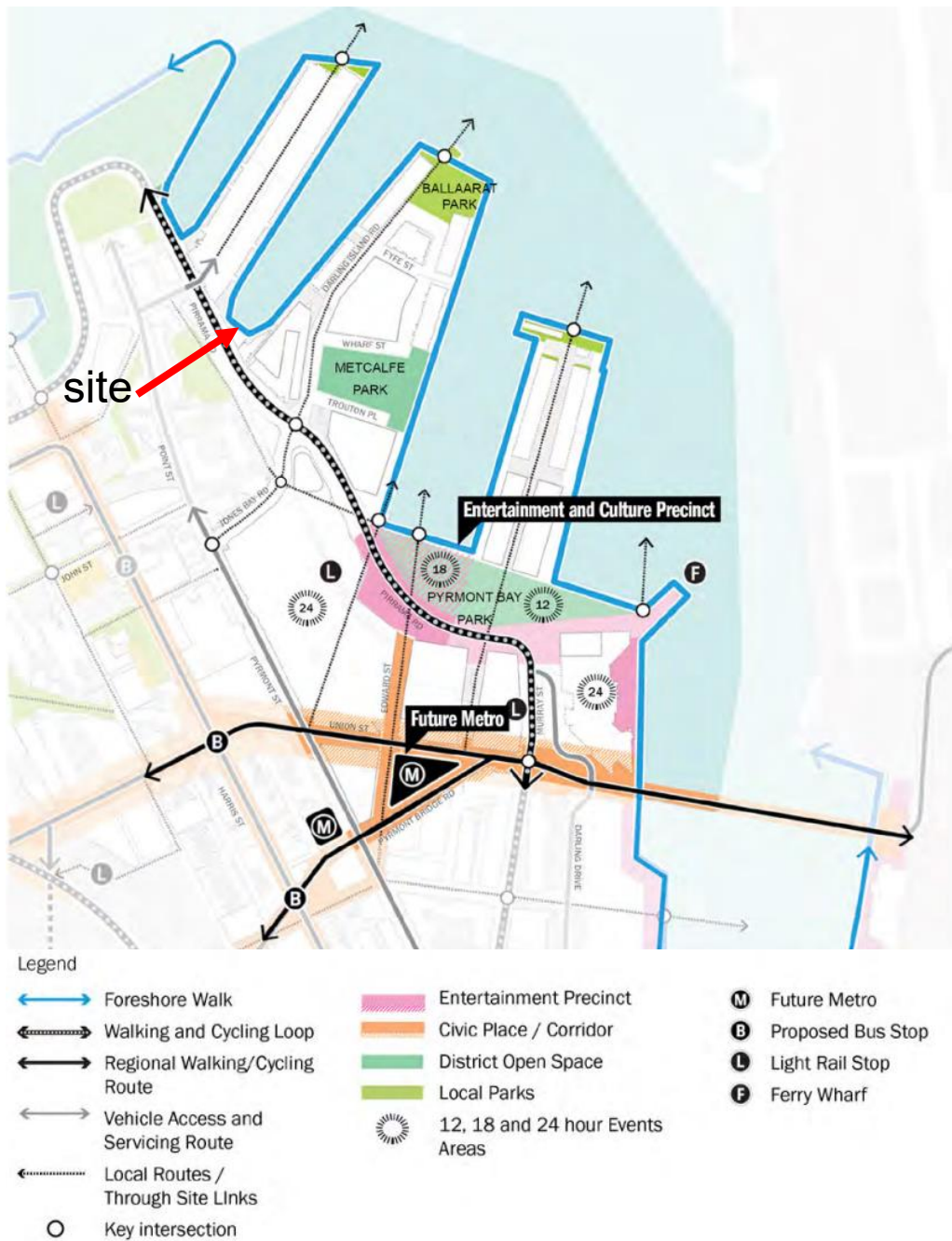


Figure 23: Extract of the 'Darling Island' sub-precinct Master Plan under the 'Pyrmont Peninsula Place Strategy'

Consultation

Internal Referrals

83. The application was discussed with Council's Environmental Health Unit, Licenced Premises Unit and Transport and Access Unit who raised concerns with the proposed development.

84. Significant issues have been raised by the above referral units which have not been adequately addressed by the applicant. See further details under the sub-headings 'Late Night Trading Hours', 'Acoustic Impacts', 'Plan of Management' and 'Traffic' in the 'Discussion' section above.

External Referrals

NSW Police

85. The application was referred to NSW Police for a period of 21 days on 13 and 15 December 2021.
86. It is understood that the Sydney Police arranged a community meeting on 28 March 2022 at the Ultimo Community Centre to discuss local concerns. Representatives from the Pymont Action Group attended the meeting.
87. The Sydney Police Crime Prevention Officer contacted the assessing Planner on 13 July 2022 to obtain an update on the application as the Police were meeting with the Pymont Action Group on 14 July 2022.
88. On 14 July 2022, the Sydney Police Crime Prevention Officer provided email correspondence to advise that a positive meeting had been held with the Pymont Action Group representatives. In response, Council's Planner provided a link to Council's DA tracker and an additional copy of the original referral letter to the Crime Prevention Officer in the event the NSW Police wished to make a submission.
89. A response was provided by NSW Police on 29 September 2022 advising that no objection was raised to the application. NSW Police recognises, however, that the application is proposed in an area which is already saturated with other licensed premises and as such, has recommended various conditions for inclusion within any consent granted. The recommended conditions relate to the provision and operation of CCTV, employment of security, compliance with the submitted plan of management, incident reporting, service of alcohol, cleaning, maintenance, noise and queuing. Had the recommendation of this assessment been for approval, these matters would have been addressed by way of conditions.
90. NSW Police have also recommended that conditions be imposed to protect the neighbourhood amenity, including conditions stating that the management of the premises must ensure that guests do not crowd or loiter in the vicinity of the premises, and that guests entering and leaving the premises must not cause undue disturbance to the amenity of the neighbourhood. NSW Police has also recommended that a condition be imposed requiring that the function centre is not to operate with a greater overall level of social impact on the well-being of the local and broader community than what could reasonably be expected from the documentation submitted in the process of obtaining the liquor licence for the premises. For reasons outlined within this report, it is considered that conditions of this nature would be impractical and difficult to enforce. Furthermore, the accompanying Plan of Management (PoM) provides no confidence that the proposed additional use of the site as a function centre would not have an unreasonable impact on the surrounding neighbourhood amenity.
91. Despite the recommendations of the NSW Police, the application is recommended for refusal.

Advertising and Notification

92. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 42 days (i.e. 6 weeks) between 15 December 2021 and 26 January 2022. An extended notification period was applied to allow for the Christmas and school holiday period.

A total of 258 owners and occupiers were notified and 77 submissions were received, including 33 submissions in objection and 44 submissions in support. An online petition, containing 391 signatures, was also received in objection.

93. The submissions raised the following key issues:

- (a) **Issue:** Number of existing Doltone House function centres. What was originally approved as a single restaurant in Jones Bay Wharf has incrementally grown to 5 function centres with an advertised capacity of 680 seated guests or 1000 standing guests.

Response: The site is located in the B3 Commercial Core zone. Function centres are permissible in the B3 zone with consent.

While the proposed function centre is a permissible land use and Council's controls do not include distance separation requirements between function centres, the Applicant has not adequately demonstrated that there will be no adverse cumulative impacts from the proposed and existing function centres.

This unresolved issue forms part of the reasons for refusal of the application.

- (b) **Issue:** Management of the existing Doltone House function centres, including the long history of complaints and non-compliances.

Response: While management and non-compliance issues relating to the existing function centres are not considerations that can be given weight in the assessment of the current application, the Applicant has not adequately demonstrated that the proposed function centre can adequately manage noise and amenity impacts, or that the proposed outdoor patron restrictions can be complied with.

This unresolved issue forms part of the reasons for refusal of the application.

- (c) **Issue:** Impacts from the existing function centres including loud music, patrons shouting, fights, traffic, cars revving and doing wheelies, buses blasting their horns to get around illegally parked vehicles, non-compliance with bump in and bump out restrictions, late night waste disposal and collection, truck movements, etc.

Response: As indicated above, management and non-compliance issues associated with the existing function centres are not considerations that can be given weight in the assessment of the current application. The Applicant, however, has not adequately demonstrated that an additional function centre will not exacerbate existing amenity impacts on nearby residents.

- (d) **Issue:** Capacity of the proposed function centre. Proposes 130 patrons indoors compared to the approved restaurant accommodating a maximum of 102 indoor patrons.

Response: The approved restaurant is for 166 patrons, including 102 internal seats and 64 external seats.

As a result of concerns raised during the assessment of the function centre, the Applicant has reduced the overall capacity from 130 patrons to 110 patrons. The indoor capacity is therefore now similar to the approved restaurant use (i.e. 8 additional patrons). The Acoustic Report also recommends that a maximum of 64 of the patrons be permitted outdoors before 6.00pm and that this number be reduced after 6.00pm.

While the proposed patron numbers are similar to the restaurant use, the Applicant has not adequately demonstrated that the proposed outdoor patron numbers can be complied with as discussed in this report.

This unresolved issue forms part of the reasons for refusal of the application.

- (e) **Issue:** Proposed hours of operation. A midnight closing time is considered to be too late and in effect means that residents are subjected to noise impacts till at least 1.00am. Trading should be restricted to 10.00pm indoors and 8.00pm outdoors.

Response: As a result of concerns raised during the assessment of the function centre, the Applicant has amended the proposed indoor hours of operation to be until 10.00pm, with a trial period of 12 months for trading until 10.30pm, Monday to Thursday and until 11.30pm, Fridays and Saturdays. The proposed outdoor trading hours continue to be until 8.00pm, 7 days a week.

As discussed in this report, late trading will only be supported where there is capacity for more late night uses to operate in an area and where it has been demonstrated that the use will not create an adverse impact on surrounding sensitive land uses. As these issues have not been satisfactorily addressed, it is agreed that the proposed hours of operation should not be supported.

- (f) **Issue:** Approved hours of operation for the restaurant. The trial approved under the existing consent should be removed.

Response: In its consideration of the current application, Council is unable to amend the approved hours granted for the restaurant use (D/2020/942 as amended).

The approved indoor area trade is until 10.00pm with a one-year trial period until 12 midnight and the approved outdoor area trade is until 8.00pm with a one-year trial period until 10.00pm. The one-year trial period will allow Council to monitor the management of the approved restaurant use. At the completion of the trial period a new application must be lodged if a further extension of trading hours is sort.

- (g) **Issue:** Cumulative impacts of the existing and proposed function centres, especially in terms of noise and traffic.

Response: The proposed function centre, when originally lodged, proposed an extended closing time of 12 midnight which was consistent with the other late-night premises and function centres in the area. The applicant was therefore requested to lodge a Traffic Report and amended Acoustic Report assessing the cumulative impacts on the surrounding area.

While it is recognised that the proposed trading hours have been reduced so that the proposed function centre will cease trading earlier than the other nearby function centres, the acoustic report has not considered potential cumulative impacts during operations and has not adequately demonstrated that the proposal will not have unreasonable amenity impacts on the nearby residential properties. Given inadequate information has been submitted, Council officers are unable to assess if existing amenity issues will be exacerbated.

This unresolved issue forms part of the reasons for refusal of the application.

- (h) **Issue:** Too close to residential properties.

Response: As discussed throughout this report, it is agreed that the proposed development has the potential to unreasonably impact on the amenity of the nearby residential properties, especially given that the outdoor area is located approximately 25 metres from the nearest residential apartments to the north-west on the opposite side of Pirrama Road and approximately 90 metres from the multi-storey residential flat building to the north-east.

This matter forms part of the reasons for refusal of the application.

- (i) **Issue:** Potential impact on resident's health and wellbeing.

Response: Matters relating to mental and emotional health impacts are not considerations that can be given weight in an assessment of an application made under the Environmental Planning and Assessment Act, 1979.

As discussed throughout this report, however, the submitted Acoustic Report has not adequately demonstrated that the proposal can comply with Council's noise emission restrictions and therefore could result in noise disturbance. Had the recommendation of this assessment been for approval, standard conditions would have been recommended to address noise emission restrictions.

- (j) **Issue:** Existing Plans of Management (PoM) for Doltone House are ineffective and do not mitigate adverse acoustic impacts.

Response: The residents of The Revy residential apartments engaged Acoustic Directions (an accredited acoustic consultant) to undertake noise measurements between 8.00pm on 13 December 2021 and 9.00am on 21 December 2021. Acoustic Directions found that the existing Johns Bay Wharf function centres were non-compliant with their PoM which requires that the "LA10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) by more than 5 dB between 7:00am and midnight at the boundary of any affected residence".

As outlined in a response above, management and non-compliance issues relating to the existing function centres are not considerations that can be given weight in the assessment of the current application. Ongoing resident complaints in relation to the operation of the existing function centres are being managed by Council's Compliance Unit.

- (k) **Issue:** Adverse noise impacts cannot be adequately managed.

Response: The submitted PoM has not satisfactorily demonstrated that the noise emission restrictions recommended within the submitted Acoustic Report (i.e. in terms of limiting patron numbers within certain parts of the outdoor terrace) are either appropriate for the function centre use or can be complied with.

It is considered by Council officers that the proposal is likely to result in unreasonable noise impacts. This is a reason for refusal. Refer to the 'Discussion' section in the body of the report for details.

- (l) **Issue:** Application fails to consider the impacts of patrons entering and exiting the premises en masse as is likely for a function centre.

Response: It is agreed that the Acoustic Report submitted with the application does not make an adequate assessment of noise generated from patrons leaving the site at the conclusion of a function. Unlike restaurant patrons, who typically come and go in small groups at different times, it is considered a function centre use could have large groups arriving and leaving at the same time.

This unresolved issue forms part of the reasons for refusal of the application. Refer to the 'Discussion' section in the body of the report for further details.

- (m) **Issue:** Acoustic Report is misleading about the number of outdoor patrons.

Response: The Acoustic Report, at Section 2.2, states that when the premises is operating as a function centre, all patrons will be indoors by 8.00pm.

At Section 5.2 of the report, it states that under the application patrons will move indoors by 8.00pm and that there will be no external service after 8.00pm, but that after 8.00pm the northern terrace will continue to be used as a throughfare for patrons accessing the amenities for the site. This section of the report further states that it is "proposed" that 28 patrons will be within the northern terrace area at any time.

Section 6 of the Acoustic Report includes the recommendation and states that "between the hours of 10pm and 12am, no external patrons except for patrons leaving the premises or accessing toilets". It is noted that the acoustic assessment recommendations do not specify a maximum number of patrons within the northern terrace area and is silent in terms of how many patrons would be permitted outdoors at any one time when leaving the site.

As discussed in the 'Discussion' section of the report, the Acoustic Report has not adequately addressed concerns regarding the use and number of patrons outdoors. This matter forms part of the reasons for refusal of the application.

- (n) **Issue:** A Function Centre will be unable to comply with the Acoustic Report recommendations.

Response: As discussed in the 'Discussion' section of the report, it is agreed that the use of the premises as a function centre will be unable to comply with the recommendations of the Acoustic Report, especially in terms of the maximum patron number within each part of the outdoor terrace area.

Noise emission levels will also only comply with the Acoustic Report recommendation if all the doors remain closed after 10.00pm. When the doors are opened for access, including by patrons accessing the amenities, the noise level will not comply. This matter, however, has not been satisfactorily addressed within the Acoustic Report.

These unresolved issues form part of the reasons for refusal of the application.

- (o) **Issue:** The Acoustic Assessment is incorrect and incomplete.

Response: Acoustic Directions (accredited acoustical consultants) was engaged by an objector to review the Applicant's Acoustic Report. In response, the following feedback was provided:

- The Acoustic Report has been based on an internal sound level of 91 dBA (90th percentile) for music and patrons (i.e. the same level that was applied to the approved restaurant use). This sound level is significantly below the level that young people wish to dance to with DJ presentation of music. It is also far below the level of a typical live contemporary band, if live music is to be presented. The report does not provide a spectrum of the music sound within the venue, and this spectrum is critical for noise break-out calculations. Based on Acoustic Directions examination, Acoustic Logic (author of the Acoustic Report) typically underestimate the amount of bass sound in contemporary music.
- The Acoustic Report claims that increasing the patrons from 102 to 130 makes only 1 dB increase. This is incorrect and indicates that the author does not understand the noise-begets-noise mechanism that occurs in restaurants, resulting from the human-hearing reaction called the 'Lombard' effect. In contrast, research shows that this increase in patron numbers would create a change of 2 dB. Although an error of 1 dB is of little concern, the fact that they don't understand the Lombard effect with patron noise could have important implications for this development.
- The calculations of noise from patron conversations will be greatly in error if the 'Lombard' effect is not applied. Each time the patron numbers double, the actual noise increases by 6 dB, whereas Acoustic Logic believe the increase is only 3dB. For example, a change from 30 to 130 patrons creates a noise level change of 13 dB, whereas Acoustic Logic consider it is only 6.5dB.
- The Acoustic Report does not describe how noise will propagate from the venue to the Revy, does not state how the noise from both internal and external patrons has been calculated and provide no certainty that the residents amenity will be protected.

The City's Environmental Health Unit has reviewed the comments made by Acoustic Directions and agrees with the concerns raised. As discussed in the 'Discussion' section of the report, the DA has not adequately demonstrated that the function centre will be consistent with the approved restaurant use, as claimed by the proposed application.

- (p) **Issue:** Airlocks to the existing function centres have been promised but have not been provided.

Response: Doltone House lodged a separate development application (D/2022/215) on 21 March 2022 for alterations and additions to Jones Bay Wharf, including installation of three (3) glazed acoustic vestibules along the upper deck and other acoustic attenuation measures. D/2022/215 relates to works specifically to Jones Bay Wharf and is unrelated to the subject application.

In accordance with the City of Sydney Community Participation Plan 2019, D/2022/215 was notified for a period of 14 days from 23 March 2022 to 7 April 2022. Letters were sent to a total of 393 owners and occupiers within a 25m radius of the site.

Council's officers from the town planning and heritage sections met with the applicant on 23 August 2022 to discuss outstanding heritage related concerns. At the time of writing this report, D/2022/215 had not been determined as the requested additional information had not yet been submitted by the applicant.

- (q) **Issue:** The Plan of Management will be difficult to enforce and will not mitigate impacts to residents.

Response: It is agreed that the PoM has failed to demonstrate that the function centre use can be appropriately managed or that the proposed management measures will prevent any adverse impacts on nearby residential properties. Refer to the 'Discussion' section in the body of the report for details.

This unresolved issue forms part of the reasons for refusal of the application.

- (r) **Issue:** The use should remain as a restaurant only.

Response: The function centre use has been assessed as having potential adverse impacts to neighbouring properties and the locality. For reasons discussed in this report, the application is not supported. Any refusal of the application would not prevent the business operator from using the premises as a restaurant as approved under D/2020/942 (as amended).

- (s) **Issue:** Dual use of the premises will be difficult to monitor and enforce.

Response: The objectors are concerned that it will be unclear which conditions of consent and which PoM will apply when the premises is being used as a restaurant, and which will apply when it is being used as a function centre.

If dual use is permitted, it will be difficult for Council Rangers, the Local Police and residents to know what use is occurring at the premises on any given day and therefore monitor compliance with the consent conditions. This would be especially difficult if each use has different patron capacities, hours of operation and plans of management.

It is further agreed, that there would be an increased risk of the maximum patron numbers and operating hours to be exceeded,

For these reasons, the application has not demonstrated that the addition of a further use is orderly development under the Act. This issue forms part of the reasons for refusal of the application.

- (t) **Issue:** The function centres should employ Police during high volume periods.

Response: It is understood that residents have been working with City of Sydney staff and the Police Local Area Command to resolve current complaints and non-compliance issues with the existing function centres. As part of these discussions, it is understood that residents have requested that Doltone House be required to engage NSW Police officers (i.e. similar to how The Star Casino is required to pay for Police to be stationed at the venue during high volume periods).

As indicated in an above response, management and non-compliance issues relating to the existing function centres are not considerations that can be given weight in the assessment of the current application.

Had the recommendation of this assessment been for approval, a condition requiring policing of the premises/locality would only be imposed with the agreement of the Police Local Area Command. Council rangers, however, would be available to attend the premises should any complaints be made to Council. The existing consent for the restaurant also requires that surveillance cameras be positioned around the site and are to be made available to Council or the Police on request.

- (u) **Issue:** Staff and security personnel are unable to manage patrons once they have left the premises.

Response: The PoM relies on general staff to control the behaviour of patrons as they leave the premises. The PoM states that a function centre staff member will monitor the forecourt between the Arrow Marine Building and Jones Bay Wharf for at least 20 minutes after the end of a function and will request patrons to minimise noise and encourage them to proceed to their transport.

Had the recommendation of this assessment been for approval, conditions could have been recommended for requiring that security guard/s be provided.

It is recognised, however, that while staff members and security personnel can request patrons to be quiet and leave the area, they are not responsible for and do not have the power to control the behaviour of patrons. Depending on the degree of any anti-social behaviour, residents would need to lodge any complaint with the Local Police or Council.

As discussed in the 'Discussion' section of the report, the PoM fails to demonstrate that the function centre use can be appropriately managed or that the proposed management measures will prevent any adverse impacts on nearby residential properties. This matter forms part of the reasons for refusal of the application.

- (v) **Issue:** The operator should be required to provide the City and the Police Local Area Command with prior notice of all events.

Response: Concern noted. The application is not supported and is recommended for refusal for the reasons outlined in this report.

- (w) **Issue:** An additional function centre will further increase existing traffic chaos.

Response: Council's Transport and Access Unit has advised that the site is in an area with good infrastructure and good access to public transport. From a technical point of view, the local road and transport network is capable of accommodating the proposed development.

There is evidence, however, that certain driver behaviour is causing operational issues within the roadway and that these issues could be made worse with the addition of another function centre. Matters relating to driver behaviour, however, are a matter for Council and the Local Police to enforce.

While the amended operating hours may assist with the departure of guests at the conclusion of a function, the amended hours would not prevent an additional 110 guests from arriving at the same time as other functions and potentially contributing to existing operational issues with the roadway.

- (x) **Issue:** Cars and limousines double park to drop-off and pick-up patrons.

Response: The objectors have included evidence of cars and local buses illegally crossing over the double lines into oncoming traffic to manoeuvre around vehicles that are double parked. The double lined section of road is adjacent to the forecourt area between the Arrow Marine Building and Jones Bay Wharf. Half of the kerbside area, adjacent to the forecourt, is a designated 2P ticketed parking zone (3 spaces), while the remaining part is a "no parking" zone. In theory, correct use of the "no parking" zone should allow drop-off and pick-up activities to occur without the need for vehicles to double park within the roadway. Any proposal to increase the "no parking" zone or limit the timeframe of the 2P ticketed parking space would need to be considered and separately approved by the Local Pedestrian, Cycling and Traffic Calming Committee.

The kerbside parking area immediately outside the Arrow Marine Building includes a car share space and two (2) other spaces. The two spaces are "no parking" between 6pm and 12 midnight Thursday to Sunday and are a designated 2P ticketed parking zone outside of these times. The two (2) spaces would therefore be available for pick-up activities but would not necessarily be available for drop-off. The opposite side of Pirrama Road includes a designated 2P ticketed parking zone.

As indicated in the response above, certain driver behaviour is causing operational issues within the roadway and these issues could be made worse with the addition of another function centre.

- (y) **Issue:** During multiple events, the public parking station opposite Jones Bay Wharf fills quickly.

Response: Council does not require a function centre to provide on-site parking in order to maximise public transport patronage. In addition to the Jones Bay Wharf Wilson car park opposite the site, The Star Parking Station is within a 10-minute walk and would also accommodate patrons driving to the site.

- (z) **Issue:** Patrons typically do not arrive and leave via public transport.

Response: It is acknowledged that guests attending a function are unlikely to walk or cycle and that the most common form of travel would be by public transport or by car (private or public).

It should be noted that there is no minimum requirement for the provision of car parking spaces for function centre uses under Part 7 of the Sydney LEP 2012. As indicated in the responses above, the local road and transport network is capable of accommodating the proposed development. Driver behaviour, however, is not an indication of road or transport capacity.

- (aa) **Issue:** No lighting details have been provided.

Response: It is noted that residents in the nearby Revy C building have reported the installation of bright lights on the Upper Deck area used by Doltone House at Jones Bay Wharf. This matter, however, does not relate to the subject application.

While the DA is for an additional use of the premises only, had the recommendation of this assessment been for approval, conditions in relation to the intensity of lighting for external areas could have been imposed.

Issue: The Applicant has incorrectly indicated that the Pyrmont Precinct is earmarked as an entertainment area.

Response: The subject site is located within the 'Darling Island' sub-precinct. The Master Plan for the area includes an 'Entertainment and Cultural Precinct' around The Star Casino, Australian National Maritime Museum and Pyrmont Bay Park. The location was chosen because of its proximity to other entertainment areas (such as Harbourside, Cockle Bay and the CBD) as well as to existing and future public transport.

As shown in Figure 23, Jones Bay Wharf and the surrounding area does not form part of the Entertainment and Cultural Precinct under the PPPS.

- (bb) **Issue:** Residents were not notified, and the Applicant quietly lodged the DA just before Christmas when most residents are away.

Response: The Applicant lodged the DA on 7 December 2021. In accordance with the City of Sydney Community Participation Plan 2019, the proposed DA was required to be notified for a period of 21 days. An extended notification period was applied from 15 December 2021 to 26 January 2022 to allow for the Christmas and holiday period. Letters were sent to a total of 258 owners and occupiers within a 50m radius of the site.

The submissions in support of the proposed development raise a number of matters which are summarised and addressed below:

- (a) **Issue:** Doltone House are a long-established family business that creates unforgettable experiences for its guests.

Response: These matters are not considerations that can be given weight in an assessment of an application made under the Environmental Planning and Assessment Act, 1979.

- (b) **Issue:** As we enter a post Covid economy, we need to do whatever we can to support the hospitality industry which has been hit the hardest by the pandemic.

- (c) **Response:** Council acknowledges that the hospitality sector is one the hardest hit by the pandemic and has developed a Community Recovery Plan to support economic and social recovery in the local area over the next 18 months. The plan builds on the \$72.5 million in support packages released by Council in March 2020 and ensures Council continues to provide support where it's needed most.

The proposed development application, however, must still be assessed on merit against the applicable planning controls and is recommended for refusal on this basis.

- (d) **Issue:** It has historically been best practice that for a restaurant to be viable it should also be able to provide function service for private bookings to meet the needs of customers and to adjust to fluctuating market conditions.

Response: Function centres are a separately defined land use and require the separate consent of Council. The proposed development is assessed as being unacceptable in terms of its impact on the amenity of the nearby residential properties and has failed to demonstrate that it is capable of being adequately managed. The proposal is recommended for refusal for the reasons set out elsewhere in this report.

- (e) **Issue:** The venue will be popular, especially at night. The ability to host a 100 person function will be very useful for corporate and social events, and will create more options for patrons to favour and support.

Response: Due to concerns relating to potential noise impacts and ability for the business operator to manage patron numbers, the proposed development is assessed as being unacceptable and is not supported. The proposal is recommended for refusal for the reasons set out elsewhere in this report.

- (f) **Issue:** The proposal will result in more casual and full-time jobs, as well as provide career opportunities in the hospitality sector.

Response: The premises is already approved as a restaurant with capacity for 166 patrons. The use of the premises for functions is sought as an additional land use. While a breakdown of staff numbers has not been submitted, it is anticipated that the staff employed in the restaurant would also work in any function centre. Furthermore, the applicant has maintained in the DA documentation that the restaurant and function centre uses are comparable. On this basis, it is not anticipated that the proposal will result in considerably more jobs or career opportunities.

- (g) **Issue:** Doltone House provide an incredible service for our community.

Response: This matter is not a consideration that can be given weight in an assessment of an application made under the Environmental Planning and Assessment Act, 1979.

Furthermore, it is noted that while function centres service the wider community, they typically provide only a limited service to the local residential community.

- (h) **Issue:** The repurposing of REVY is a great addition to the Pymont area and wider community, will provide added amenity to the precinct, replaces an eyesore and safety hazard, will help in the street activation and will have a positive multiplier effect to the local economy.

Response: It is agreed that the alterations to the heritage listed building, undertaken as part of the approved restaurant use, has and will continue to have many positive impacts. The additional use of the premises as a function centre, however, will not further improve the streetscape or appearance of the refurbished building. The use of the premises as a restaurant is also likely to have positives effects on the local economy.

The proposed use of the premises as a function centre is assessed as being unacceptable in terms of its potential impact on the amenity of the nearby residential properties. This matter forms part of the reasons for refusal of the application.

- (i) **Issue:** Jones Bay Wharf is working closely with Google and Transport for NSW to get their planned walkway underway. The walkway will terminate at REVY and will help with access especially with local functions.

Response: The Pymont Peninsula Place Strategy (PPPS) includes a harbour foreshore walk which connects Darling Harbour to Rozelle. The subject site sits within the proposed new foreshore walk link. The walkway will not provide a more direct route to public transport options or to the vehicular drop-off/pick-up zones and as such, is unlikely to improve access for patrons attending the site.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

94. The development is not subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015. Under the Plan, contributions for function centres are calculated per additional square meter of gross floor area. The application does not seek to increase the existing gross floor area of the building and as such is excluded from the need to pay a contribution.

Relevant Legislation

95. Environmental Planning and Assessment Act 1979.

Conclusion

96. The amending development application seeks consent to allow an existing approved restaurant to be used for the dual purpose of a function centre for a maximum of 110 patrons. The proposed base indoor hours of operation are 7.00am to 10.00pm, Monday to Sunday with a twelve (12) month trial for trading from 7.00am to 10.30pm, Monday to Thursday and from 7.00am to 11.30pm, Fridays and Saturdays. The proposed outdoor hours of operation are 7.00am to 8.00pm, Monday to Sunday. No building works are proposed as part of the application.
97. The submitted Acoustic Report provides insufficient information to adequately demonstrate that the proposed use of the site as a function centre will be capable of operating without unreasonable noise and amenity impacts to the occupants of surrounding residential land uses.
98. The recommendations of the Acoustic Report, in terms of maximum number of patrons permitted within different parts of the outdoor area, are impractical for functions and the accompanying Plan of Management (PoM) provides no confidence that the management measures outlined in the PoM can be successfully carried out or enforced.
99. The development fails to comply with the aims of the Sydney Local Environmental Plan 2012, the objectives of the B3 Commercial Core zone objectives, and the late night management controls contained within the Sydney DCP 2012.
100. In its current form where the additional use as a function centre was to be approved, it would be logistically difficult for Council Rangers, the Local Police and residents to know what use was occurring at the premises on any given day and therefore monitor compliance with the relevant consent conditions. This would be especially difficult given that each use proposes different patron capacities, different hours of operation and different plans of management. The proposal therefore does not promote orderly use of the land.
101. Between January 2022 and July 2022, multiple requests were made to the applicant to respond to and address the numerous issues raised. To date, however, the applicant has not adequately responded to the outstanding concerns and has not provided adequate supporting documentation to demonstrate with any confidence that the additional use can operate without adverse impacts on the surrounding residential properties. While many restrictions have been recommended by the Applicant, in an attempt to address the noise and amenity impacts, the proposed management measures are considered unfeasible and unrealistic.
102. Having regard to the above, the development is considered unsatisfactory and not in the public interest. The proposal is therefore recommended for refusal.

ANDREW THOMAS

Executive Manager Planning and Development

Rebecca Gordon, Specialist Planner

Attachment A

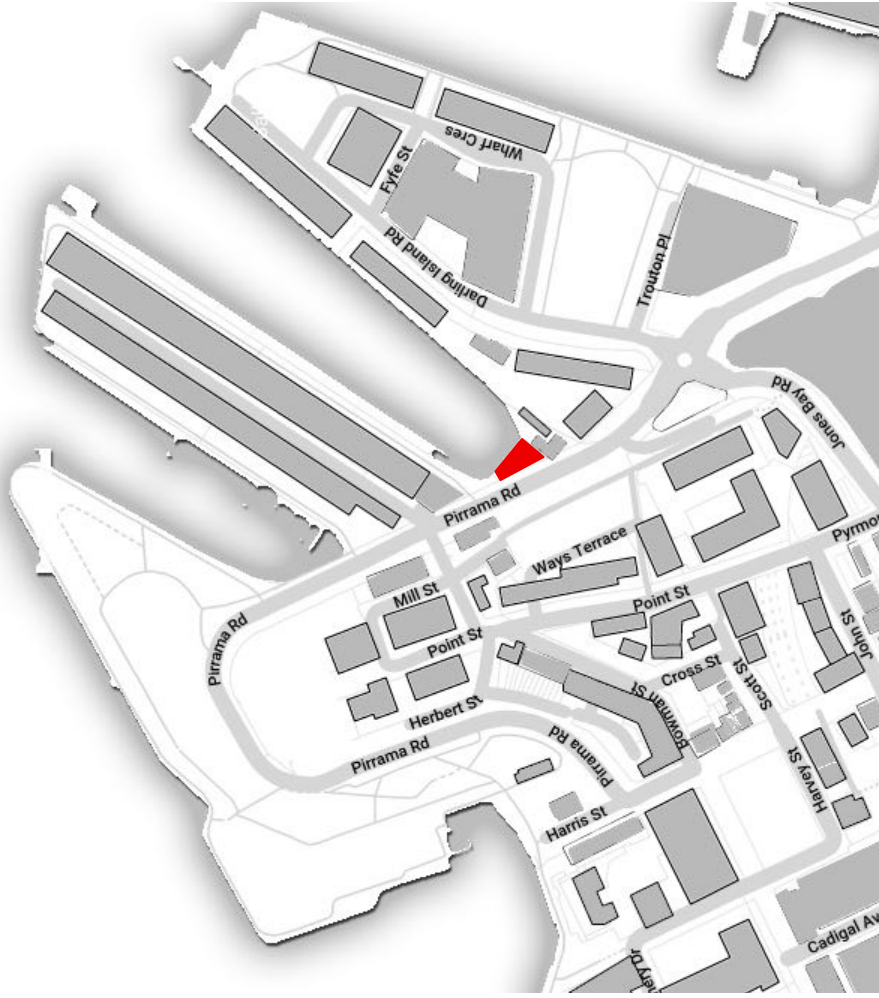
Selected Plans

DEVELOPMENT APPLICATION

**34 PIRRAMA ROAD
(FORMER ARROW MARINE BUILDING)**
34 PIRRAMA ROAD, JONES BAY PYRMONT

DRAWING LIST

Sheet N	Sheet Name	Sheet Rev. No	Rev. Date
DA-01	COVER SHEET & LOCATION PLAN DEVELOPMENT APPLICATION	J	23/9/21
DA-02	SITE PLAN - DEVELOPMENT APPLICATION	I	23/9/21
DA-03	SEATING PLAN PROPOSED (A) - DEVELOPMENT APPLICATION	K	23/9/21
DA-04	SEATING PLAN PROPOSED (B) - DEVELOPMENT APPLICATION	K	23/9/21



1 LOCATION MAP
Scale: 1:5000

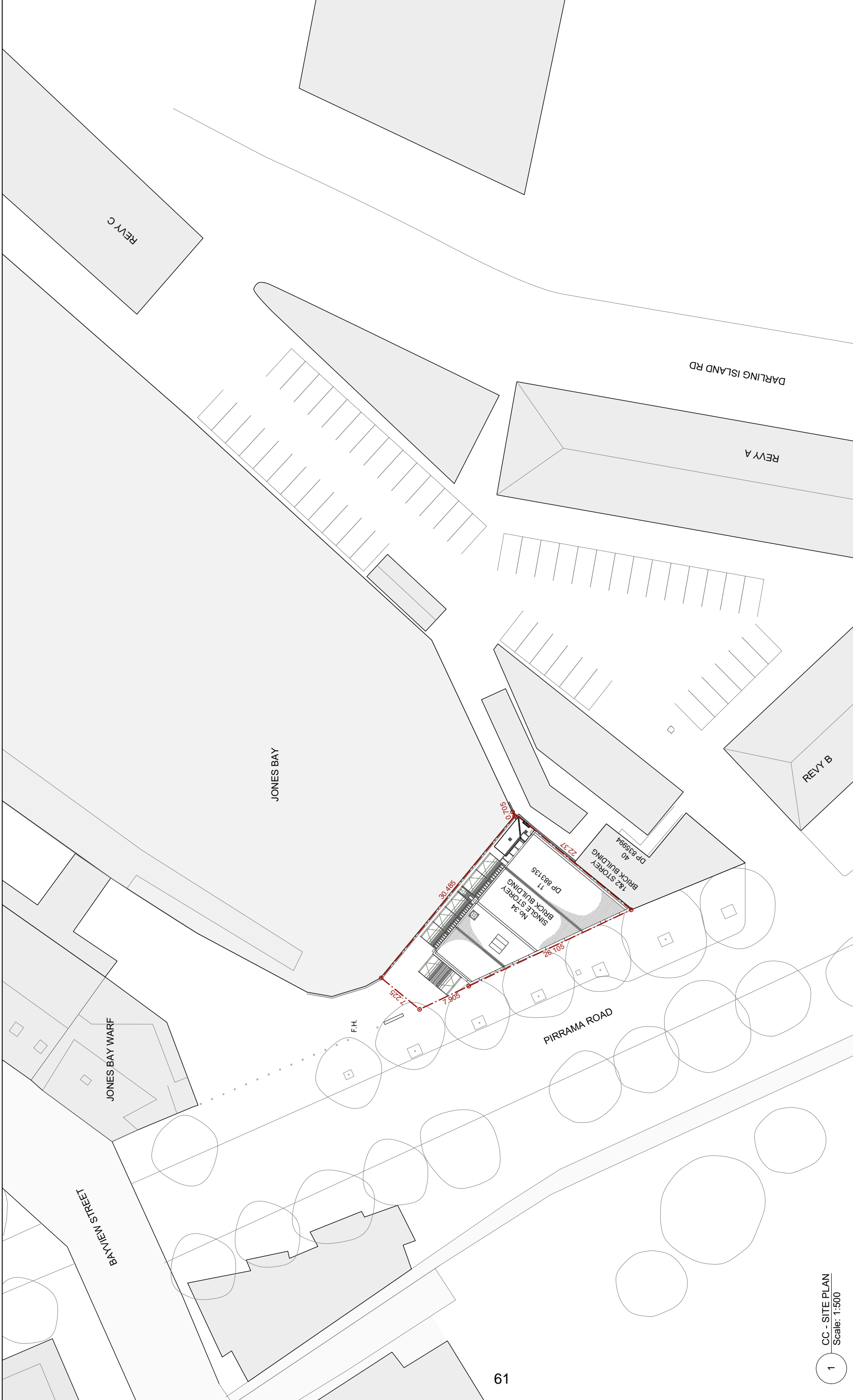


2 AERIAL MAP
Scale: 1:2000

ISSUE	DATE	ISSUE NOTE	ISSUE FOR DEVELOPMENT APPLICATION	PROJECT	CLIENT	DWG DATE	PROJECT #	DWG NUMBER
J	23/9/21	ISSUE FOR DEVELOPMENT APPLICATION	34 PIRRAMA ROAD. former Arrow Marine Building	ARROW MARINE BUILDING PTY LIMITED	31/08/2018	1816	DA-01	
			ADDRESS 34 PIRRAMA ROAD JONES BAY PYRMONT	DRAWING COVER SHEET & LOCATION PLAN DEVELOPMENT APPLICATION	REVISION J	ORIGINAL SHEET SIZE A3	NORTH	
					SCALE	DRAWN GP	CHECKED RG	
					CAD FILE NAME	aib 210923 DA.vwk		

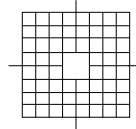
Check and verify all dimensions and levels on site before commencing work. Do not scale drawings, use figures and dimensions as shown on drawings. All drawings are to be prepared and transmitted in any form or by any means in part or in whole without the written consent of Design 5 Architects





1 CC - SITE PLAN
Scale: 1:500

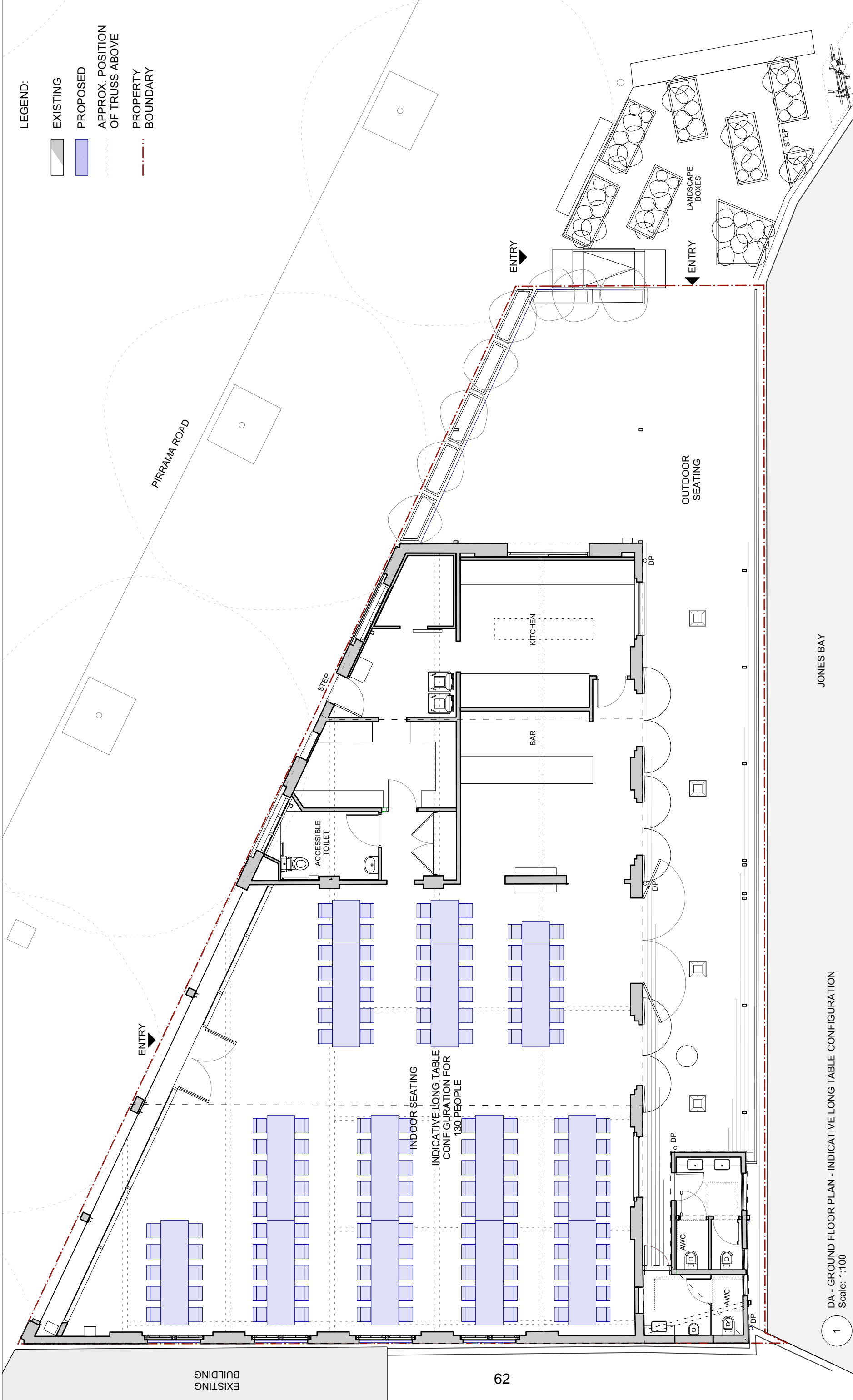
ISSUE	DATE	ISSUE NOTE	PROJECT	CLIENT	DWG DATE	PROJECT #	DWG NUMBER
1	23/9/21	ISSUE FOR DEVELOPMENT APPLICATION	34 PIRRAMA ROAD. former Arrow Marine Building	ARROW MARINE BUILDING PTY LIMITED	31/08/2018	1816	1816
			ADDRESS	DRAWING	REVISION	ORIGINAL SHEET SIZE	NORTH
			34 PIRRAMA ROAD JONES BAY PYRMONT	SITE PLAN - DEVELOPMENT APPLICATION	1	A3	NORTH
			DESIGN 5 ARCHITECTS		SCALE	DRAWN	CHECKED
			Level 5, 79 Myrtle St, Chippendale NSW 2008 Tel (02) 931 91855 DESIGN 5 - ARCHITECTS PTY LTD ABN 22 000 086 04 Nominated Architect - Alan Croser, Registration No 4693		1:500	GP	RG
					CAD FILE NAME		
							sub 210923 DA.vwk



Check and verify all dimensions and levels on site before commencing work. Do not scale drawings, use figured dimensions or transmitted in any form or by any means in part or in whole without the written consent of Design 5 Architects

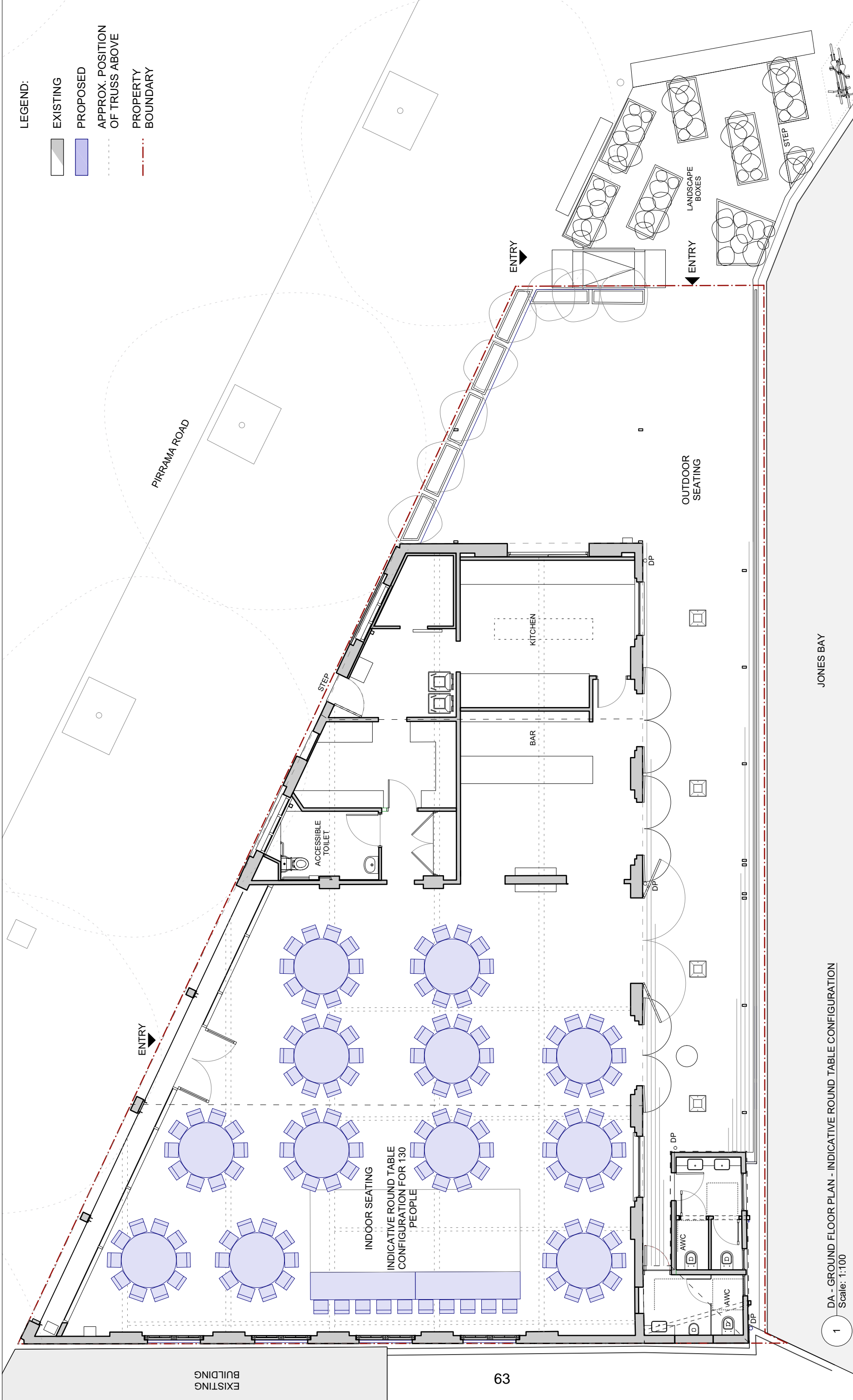


300MM ON ORIGINAL



1 DA - GROUND FLOOR PLAN - INDICATIVE LONG TABLE CONFIGURATION
Scale: 1:100

ISSUE	DATE	ISSUE NOTE	PROJECT	CLIENT	DWG DATE	PROJECT #	DWG NUMBER
K	23/9/21	ISSUE FOR DEVELOPMENT APPLICATION	34 PIRRAMA ROAD. former Arrow Marine Building	ARROW MARINE BUILDING PTY LIMITED	31/08/2018	1816	DA-03
			ADDRESS	DRAWING	REVISION	ORIGINAL SHEET SIZE	NORTH
			34 PIRRAMA ROAD JONES BAY PYRMONT	SEATING PLAN PROPOSED (A) - DEVELOPMENT APPLICATION	K	A3	
			DESIGN 5 ARCHITECTS Level 3, 79 Myrtle St, Chippendale NSW 2008 Tel (02) 93191855 DESIGN 5 - ARCHITECTS PTY LTD ABN 22 080 086 104 Nominated Architect - Alan Croker, Registration No 4693	SCALE	CAD FILE NAME	DRAWN	CHECKED
				1:100 GP	1:100 GP	RG	RG
							sub 210923 DA.vwk



LEGEND:

- EXISTING
- PROPOSED
- APPROX. POSITION OF TRUSS ABOVE
- PROPERTY BOUNDARY

1 DA - GROUND FLOOR PLAN - INDICATIVE ROUND TABLE CONFIGURATION
Scale: 1:100

ISSUE	DATE	ISSUE NOTE	PROJECT	CLIENT	DWG DATE	PROJECT #	DWG NUMBER
K	23/9/21	ISSUE FOR DEVELOPMENT APPLICATION	34 PIRRAMA ROAD. former Arrow Marine Building	ARROW MARINE BUILDING PTY LIMITED	31/08/2018	1816	DA-04
			ADDRESS	DRAWING	REVISION	ORIGINAL SHEET SIZE	NORTH
			34 PIRRAMA ROAD JONES BAY PYRMONT	SEATING PLAN PROPOSED (B) - DEVELOPMENT APPLICATION	K	A3	
			DESIGN 5 ARCHITECTS		SCALE	DRAWN	CHECKED
			Level 3, 79 Myrtle St, Chippendale NSW 2008 Tel (02) 931 91855 DESIGN 5 - ARCHITECTS PTY LTD ABN 22 000 086 104 Nominated Architect - Alan Croker, Registration No 4693		1:100	GP	RG
					CAD FILE NAME		
							aub 210923 DA.vwk



Check and verify all dimensions and levels on site before commencing work. Do not scale drawings, use figured dimensions or transmitted in any form or by any means in part or in whole without the written consent of Design 5 Architects

Attachment B

<h2>Plan of Management</h2>



34 Pirrama Road, Pyrmont

Plan of Management – Function Centre Mode

Contact Details:

SJB Planning
Level 2, 490 Crown Street
Surry Hills NSW 2010
Australia

T: 61 2 9380 9911
planning@sjb.com.au
www.sjb.com.au

SJB Planning (NSW) Pty Ltd
ABN 47 927 618 527
ACN 112 509 501

Table of Contents



Part 1 – Purpose	4
Part 2 – The Site and locality	5
Part 3 – Hours of Operation and Capacity and Management	6
Part 4 – Amenity of the Neighbourhood	8
Part 5 – Complaints	12
Part 6 – Behaviour of Patrons and the Responsible Service of Alcohol	13
Part 7 – Security and Safety	15
Part 8 – Signage	16
Part 9 – Incident Book	17
Part 10 – Deliveries and Waste Disposal	18
Part 11 – Maintenance	19
Part 12 – Fire Safety Measures	20
Part 13 – Operation of the Premises	21
Part 14 – Amendment to this plan	22
Part 15 – Plan of Management and Development Consent	23
Part 16 – Owners Declaration	24

List of Figures

Figure 1: Function Centre floor plan – ground floor plan – indicative long table configuration

Figure 2: Function Centre floor plan – ground floor plan – indicative round table configuration

Part 1 – Purpose

The purpose of this Plan of Management (PoM) is to establish performance criteria for various aspects of the operation of a function centre which is proposed to operate at 34 Pirrama Road, Pyrmont in the 'Arrow Marine' Building. The building and site has consent to operate as a restaurant and as a function centre. When being operated as a function centre the building will not be operated as a restaurant.

The function centre will be licenced and the proprietor will join the local Liquor Accord. The function centre is to operate in the area covered by the plan at Figure 1.



Figure 1: Function Centre area covered by this PoM

When the premises is being operated in function mode there will be no external seating on the open terraced areas and the seating removed and stored within the Doltone House premises at Jones Bay Wharf.

All staff shall be made familiar with this PoM and a copy of the PoM is to be kept available on the premises at all times.

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Part 2 – The Site and locality

The function centre is located at 34 Pirrama Road, Pyrmont. The site and building are heritage listed and comprise a single storey brick building with pitched roof form. The building is known as the former Arrow Marine Building and has been adapted for restaurant use.

The site is a waterfront building with a maritime association with the working harbour and the wharf precinct.

The main late-night venue which operates within 200m of the site is Doltone House which is a large-scale function venue located in Jones Bay Wharf. Other restaurants operate on the wharf until midnight as well as numerous charter boats which operate from the wharf.

In the broader vicinity (greater than 200m away) there are multiple late-night venues which operate from the Star Casino and several pubs within Pyrmont.

To the west of the site are residential apartments fronting Pirrama Road which enjoy northerly outlooks towards Jones Bay.

The operation and management of the function centre will have regard to these residential properties and is reflected in the proposed limitation of the outdoor areas in the western courtyard to 8.00pm to respect the residential amenity and minimise noise generation.

Part 3 – Hours of Operation and Capacity and Management

The function centre is to operate in accordance with the approved hours under the condition of consent as follows:

- The indoor hours of operation are
- 7.00am to 10.30pm Monday to Thursday
- 7.00am to 11.30pm Friday and Saturdays
- 7.00am to 10.00pm Sundays
- The outdoor hours of operation are 7.00am to 8.00pm seven (7) days per week; and
- The maximum total capacity of the function centre is 110 patrons.

The site's primary entrance during operation is to the north (waterfront side) adjacent to the outdoor terrace area. Patrons will arrive and leave from the waterfront entrance to the building so that interaction with patrons arriving and leaving is maximised and noise and behaviour can be readily monitored and if necessary managed.

Intoxicated, disruptive, violent or anti-social behaviour is not permitted within, or directly outside, of the premises. The Manager will ensure that this type of behaviour is prevented by:

- (a) Not allowing any intoxicated person to enter or remain upon the premises;
- (b) Refusing service to patrons considered to be intoxicated because of legal, safety or security issues;
- (c) Zero tolerance for behaviour which the management considers undesirable both inside and outside of the premises;
- (d) Maintaining that patrons leave the premises in a quiet and orderly manner taking due regard to the local residents and businesses to ensure the quiet and good order of the neighbourhood is upheld; and
- (e) Identifying problems and taking action to prevent them from escalating.

No persons (such as those commonly known as spruikers) or recordings or other devices which have the effect of spruiking are to be located on Council owned property.

Management will at all times monitor the number of persons within the premises to ensure that the maximum number of patrons is not exceeded.

The method of checking the number of persons permitted in the premises will be determined by ensuring that no patron is admitted who is not assigned a seat as the maximum occupancy is equal to provided seating.

Management will at all times ensure that all people entering and leaving the premises do so in a manner that respects the nature of the surrounding locality. When the function centre is cleared at the end of service, the Duty Manager will ensure this is undertaken in a safe and orderly manner through the direction of and the provision of assistance to patrons.

Management and will ensure that all fire escapes and exits are kept clear of person(s) and/or objects at all times.

All staff will actively participate in communicating with management to ensure early detection of any problems.

Part 4 – Amenity of the Neighbourhood

Management will take all reasonable actions to ensure that the conduct of the business does not have a negative impact on the neighbourhood.

Management will take all reasonable measures to prevent patrons from disturbing the neighbourhood as they leave.

Management shall ensure that the immediate vicinity in front of the premises is kept clean and tidy during operational hours.

Staff shall consider the amenity of neighbours and shall take all reasonable measures to ensure the conduct of the business does not impact adversely on the surrounding area.

Staff will take all reasonable measures to ensure that the behaviour of staff and patrons when entering or leaving the premises does not detrimentally affect the amenity of the neighbourhood. Management shall provide training to all new staff (and existing staff from time to time as required) in how to manage customers who prove difficult to move.

The business shall be conducted in such a manner as not to interfere with, or materially affect, the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

Staff shall ensure that the entry points and immediate vicinity are kept clean and tidy during the use of the premises.

Staff shall take all reasonable steps to control the behaviour of patrons of the premises as they enter and leave and minimise disturbance from the outdoor dining area. In this regard:

- (i) No seating is provided on the outdoor areas when the site is being used as a function centre
- (ii) Prior to 8.00pm the western terrace area is able to be used for greeting of guests on arrival and the serving of drinks and canapes. Once served guests will be encouraged to join the function within the premises.
- (iii) Prior to 8.00pm, function centre staff will monitor guest numbers on the western terrace and northern terrace.
- (iv) Guest numbers on the western terrace after 6.00pm are not to exceed 18 persons. At no time is there to more than 28 Patrons on the northern terrace.
- (v) Should numbers on the western and northern terrace be nearing the capacity outlined in (iv) above, staff will direct patrons to join the function indoors, or if capacity permits, move to the northern terrace area (maintaining the maximum permitted at any time of 28 patrons on the northern terrace).
- (vi) Limiting numbers on the western terrace will be prioritised by staff to ease the closure of this area to patrons after 8.00pm other than its use as an exit thoroughfare. Should guests access the western terrace other than as an exit path staff will direct them back to the northern terrace or indoors.
- (vii) The limitations on the use of the external terrace areas will be communicated to clients at the time of booking a function. ;
- (viii) After 8.00pm the western deck will not be used for any purpose other than as an exit thoroughfare for guests leaving the premises having exited the internal space via the western terrace;

- (ix) The northern deck will not be provided with seating when the premises is being used for functions but will provide access to the amenities for the premises;
- (x) With the arrival of large groups of patrons for example, birthday bookings, staff are to ensure that they enter the premises and are seated as quickly and quietly as possible so as not to disturb the surrounding area; and
- (xi) Between 10.00pm and midnight staff, are to monitor patrons leaving the premises and provide corrective advice to any patron in the immediate vicinity of the premises acting in a manner which may adversely impact on the surrounding area.

4.1 Noise

The premises shall operate to comply with the following acoustic criteria:

- (a) The LA10, 15 minute noise level emitted from the use must not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between the hours of 7.00am and 12.00 midnight when assessed at the boundary of any affected residence.
- (b) The LA10, 15 minute noise level emitted from the use must not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between the hours of 12.00 midnight and 7.00am when assessed at the boundary of any affected residence.
- (c) Notwithstanding compliance with (a) and (b) above, noise from the use when assessed as an LA10, 15 minute enters any residential use through an internal to internal transmission path is not to exceed the existing internal LA90, 15 minute (from external sources excluding the use) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) when assessed within a habitable room at any affected residential use between the hours of 7.00am and 12midnight. Where the LA10, 15 minute noise level is below the threshold of hearing, Tf at any Octave Band Centre Frequency as defined in Table 1 of International Standard ISO 226 : 2003-Normal Equal-Loudness-Level Contours then the value of Tf corresponding to that Octave Band Centre Frequency shall be used instead.
- (d) Notwithstanding compliance with (a), (b) and (c) above, the noise from the use must not be audible within any habitable room in any residential use between the hours of 12.00 midnight and 7.00am.
- (e) The LA10, 15 minute noise level emitted from the use must not exceed the background noise level (LA90, 15 minute) in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 3dB when assessed indoors at any affected commercial premises.

All doors on the southern, western and eastern façade are to be closed at all times during trade.

All doors and windows on the northern façade are to be closed between the hours of 10.00pm and midnight if the premises is trading. To facilitate access to the external amenities after 10.00pm exit and entry will be via the eastern most doors which are closest to the external amenities. Discreet internal way finding signage will be provided adjacent to these doors indicating access to the amenities.

No music is to be played in the outdoor courtyards after 8.00pm.

Speakers in the premises are to be vibration isolated from the building structure using Embelton NRD Mounts or similar.

External disposal of bottles / waste must be undertaken prior to 10.00pm, but not before 7.00am.

4.2 End of Function Exit Procedures

When a function is ending the following procedures are to be followed:

- Fifteen minutes prior to the end of a function, staff are to thank guests for their attendance and remind them that there are residential neighbours nearby and to please leave quietly to avoid disturbance to neighbouring properties. It will be suggested to guests that ride share or taxi booking be completed now to avoid congregation of groups on Pirrama Road after exit from the premises;
- A staff member is to be positioned on the western deck exit to reinforce to guests exiting the premises the need to leave quietly and requesting guests to move to their transport quietly;
- Guests catching public transport are to be directed to the Star and the public transport services available at that location which is away from residential properties to the west of the premises;

- The staff member at the western exit is to monitor function guests who have left the premises and if necessary request that noise be minimised and encourage them to proceed to their transport and to leave the area; and
- A function centre staff member is to monitor the forecourt between the Arrow Marine Building and Jones Bay Wharf for at least 20 minutes after the end of a function to monitor for noise making behaviour and if necessary ask patrons to move on.

Part 5 – Complaints

Any complaints received will be referred to the Manager to be addressed. If they are absent then the Duty Manager will take their place in dealing with such matters.

All noise complaints should be investigated. The General Manager will be available for local residents to contact immediately regarding any sound issues.

Should a complaint be received from an adjacent resident or business then the matter is to be referred to the Manager and recorded in a noise complaint register held on site. If they are unable to attend to the issue then a time is to be arranged as to when the call will be returned. The complaint is to be dealt with in a sensitive and respectable manner, and the Manager is to inform the resident of the most effective way to deal with the complaint. The Manager is to be proactive in asking residents or business if solutions can be met.

When it is considered necessary for follow up procedures, residents or local business are to be contacted to ascertain whether the solution to the complaint has been successful. If it is deemed that the complaint's solution has not been successful, then the Licensee/Duty Manager is to seek an alternative solution.

Part 6 – Behaviour of Patrons and the Responsible Service of Alcohol

The Duty Manager and staff shall take all reasonable steps to control the behaviour of the patrons as they enter and leave by:

- (a) Erecting signs at both exits requesting patrons to leave quietly; and
- (b) From about 30 minutes before it closes on any night at regular intervals instruct the staff to request patrons to leave the premises and the vicinity quickly and quietly so as to avoid disturbance of the neighbourhood.

The Duty Manager and staff shall take all reasonable steps to ensure that there is no loitering by persons seeking admittance to the premises in the vicinity of its entrance.

The Duty Manager and staff shall take all reasonable steps to ensure that there is no patron(s) on the outdoor area being loud or acting with unruly behaviour.

The Liquor Licence granted in respect of the premises shall be exercised in accordance with the provisions of the *Liquor Act 2007*.

The following operational policies for the responsible service of alcohol shall apply with the “Liquor Promotion Guidelines”:

- (a) The Licensee will maintain a register containing copies of the certificates showing the satisfactory completion of the Responsible Service of Alcohol course undertaken by the Licensee and all staff required to complete that course. That register shall be made available for inspection on request by a NSW Police officer or special inspector.
- (b) The Licensee shall not engage in any liquor promotion that is likely to promote irresponsible service of liquor.
- (c) The Function Centre shall not serve alcohol to any person who is intoxicated.
- (d) Any person who is intoxicated shall be denied entry to the premises.
- (e) No person under the age of 18 years is to consume alcohol on the premises. Where a patron appears to be under 25 years of age, valid photo identification is to be checked by staff before service. Identification is to be requested in the form of a valid:
 - (i) Passport;
 - (ii) Driver’s License; or
 - (iii) Proof of Age card.
- (f) The Duty Manager and staff will not permit intoxication or any indecent, violent or quarrelsome conduct by patrons on the premises. Any person causing such a disturbance shall be refused service and asked to leave the premises. Any patron whose behaviour is either extreme or repeatedly objectionable may be barred from entering the premises for a period determined by the Licensee.

- (g) Low alcohol beer and non-alcoholic beverages (including water) will be available at all times when full strength liquor is available.
- (h) The Licensee will ensure all required legislative signage are prominently displayed throughout the premises.
- (i) The Duty Manager or staff will arrange (without charge) for taxis to collect any patron from Pirrama Road in front of the premises if requested to do so.

Part 7 – Security and Safety

A copy of the current development consent with the latest hours of operation shall be kept in the premises and shall be produced on request for inspection by any member of the Police Service, a Council Officer, or a Special Investigator with the Office of Liquor Gaming & Racing.

For the purpose of the plan, the description, “the immediate vicinity” shall be the footpath 10 metres in any direction from the premises.

The manager shall maintain and record in an Incident Book:

- (a) Any complaints made directly to the management or staff of the premises by local;
- (b) Residents or business people about the operation of the premises or the behaviours of its patrons;
- (c) Any visits by any law enforcement personnel noting their agencies or departments, badge numbers, reasons for the visits and results of the visits; and
- (d) Any details of incidents which required intervention by staff within the premises or in vicinity of the premises.

Part 8 – Signage

Signage will clearly state the Licensee's name and licence number.

The Licensee will ensure that all legally required signage is displayed at all times. This will include signage regarding dress code, responsible service of alcohol and harm minimisation.

Signage will be displayed prominently at all exit points requesting patrons to respect the neighbourhood by leaving in a respectful and quiet manner.

Signage will be displayed on the outdoor dining area requesting patrons to respect the neighbourhood by avoiding the creation of unnecessary noise in the location denoted in figure 2 below

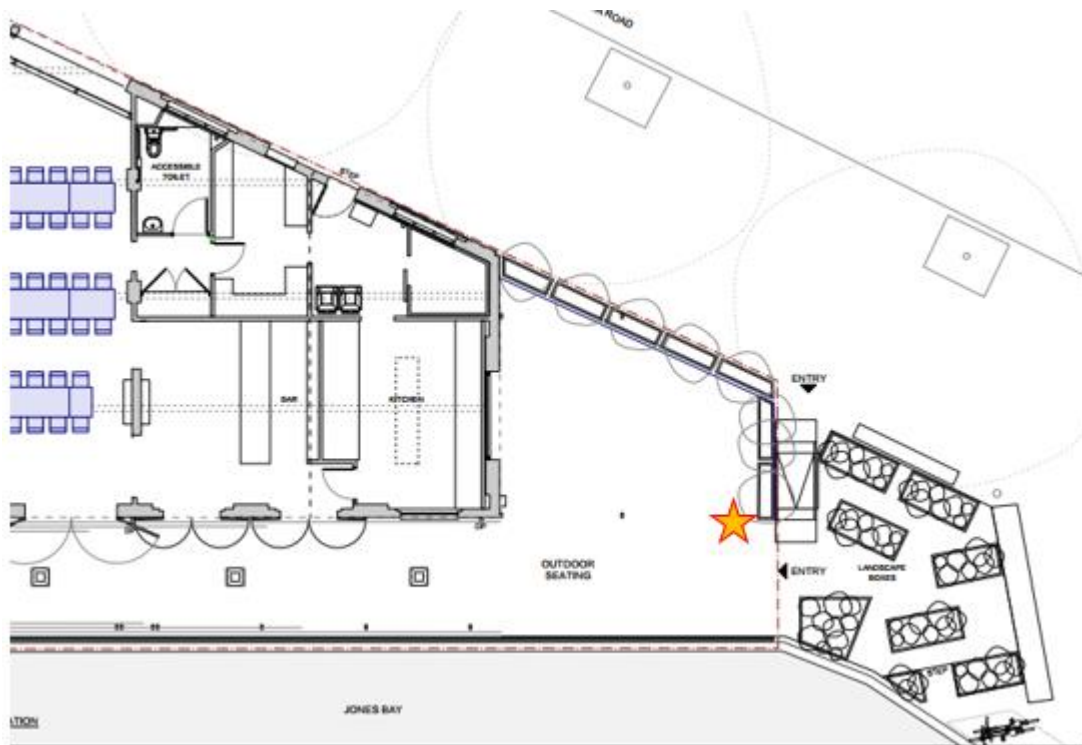


Figure 2: location of signage to be provided at exit to reminding patrons of residential neighbours nearby marked with a star.

Part 9 – Incident Book

The Management shall maintain and record in the Incident Book, in addition to any matters noted elsewhere in this Checklist, the following:

- (a) Any complaints made directly to management or staff of the premises by local residents or business people about the operation of the premises or the behaviours of its patrons; and
- (b) Any visits by any law enforcement personnel noting their agencies, departments, badge numbers, reasons for the visits and results of the visits.

The Management shall make the Incident Book available for inspection by the Council's officers or the Police at all reasonable times and provide a copy within seven (7) days of receipt of a written request to do so.

Complaints in the incident register shall include the following:

- (a) Complaint time and date;
- (b) Name, contact and address details of person(s) making the complaint;
- (c) Nature of the complaint;
- (d) Names of staff on duty; and
- (e) Action to be taken by premises to resolve the complaint.

Part 10 – Deliveries and Waste Disposal

Waste is to be managed in accordance with the Waste Management Plan prepared by Elephant's Foot Recycling Solutions approved under Consent D/2020/942. The waste storage room is located within the adjacent Jones Bay Wharf.

Staff are to observe the following procedures as identified in the Waste Management Plan:

- All garbage should be bagged and garbage bins should be plastic lined;
- Bagging of recyclables is not permitted;
- Any interim waste storage is located BOH during operations;
- The operator will organise grease interceptor trap servicing;
- A suitable storage area needs to be provided and effectively bunded for chemicals, pesticides and cleaning products;
- Dry basket arrestors need to be provided to the floor wastes in the food preparation and waste storage areas; and
- All flattened cardboard will be collected and removed to the waste room recycling bins.

Waste will be collected regularly by a private waste contractor engaged by the adjacent Jones Bay Wharf strata committee from within Jones Bay Wharf.

Part 11 – Maintenance

The premises shall be kept in a clean and tidy condition and regularly maintained to the satisfaction of Council both internally and externally.

The Owner of the building shall be responsible for the removal of any graffiti from the building within 48 hours of the graffiti appearing.

The Manager of the building shall ensure that all windows on the façade of the building are cleaned regularly and, in any event, not less than annually.

Part 12 – Fire Safety Measures

The Manager shall ensure that all essential services installed at the premises are certified annually and shall ensure that they remain in good working order.

In the event of any malfunctioning of any essential service, the Manager shall ensure that it is rectified as quickly as is reasonably possible.

Lists of the telephone numbers of all relevant emergency agencies shall be kept near all telephones.

All staff shall be made aware of fire safety requirements and the procedures to be followed in the event of an emergency at the premises.

Part 13 – Operation of the Premises

Intoxicated, disruptive, violent or anti-social behaviour is not permitted within, or directly outside, of the premises. The Manager will ensure that this type of behaviour is prevented by:

- (a) Not allowing any intoxicated person to enter or remain upon the premises;
- (b) Refusing service to patrons considered to be intoxicated because of legal, safety or security issues;
- (c) Zero tolerance for behaviour which the management considers undesirable both inside and outside of the premises;
- (d) Maintaining that patrons leave the premises in a quiet and orderly manner taking due regard to the local residents and businesses to ensure the quiet and good order of the neighbourhood is upheld;
and
- (e) Identifying problems and taking action to prevent them from escalating.

No persons (such as those commonly known as spruikers) or recordings or other devices which have the effect of spruiking are to be located on Council owned property.

Management will at all times monitor the number of persons within the premises to ensure that the maximum number of patrons is not exceeded.

The method of checking the number of persons permitted in the premises will be determined by ensuring that no patron is admitted who is not assigned a seat as the maximum occupancy is equal to provided seating.

Management will at all times ensure that all people entering and leaving the premises do so in a manner that respects the nature of the surrounding locality. When the premises is cleared at the end of service, the Duty Manager will ensure this is undertaken in a safe and orderly manner through the direction of and the provision of assistance to patrons.

Management and will ensure that all fire escapes and exits are kept clear of person(s) and/or objects at all times.

All staff will actively participate in communicating with management to ensure early detection of any problems.

Part 14 – Amendment to this plan

If, in circumstances where experience shows that it is reasonable or desirable to modify any provision of this plan for the better management of the premises, that modification may be made to the plan subject to the agreement of the Council.

If an amendment to this plan is only required to maintain compliance with statutory regulations, it may be made without Council agreement. Council is to be provided with a new copy of the plan immediately.

Part 15 – Plan of Management and Development Consent

This PoM is subject to the terms of the active development consent. In the event that there is any inconsistency between this PoM and the active development consent, the development consent it to prevail.

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Part 16 – Owners Declaration

I have read and understood the conditions of this Checklist.

Name: _____

Position: _____

Signature: _____

Date:

Item 4.**Development Application: 360 Victoria Street, Darlinghurst - D/2021/1531**

File No.: D/2021/1531

Summary

Date of Submission:	Submitted 29 December 2021 Amended plans received 14 April 2022, 5 July 2022 and 18 August 2022
Applicant:	Matthew Owen Pty Ltd
Architect/Designer:	Boffa Robertson Group
Owner:	Trustees of St Vincent's Hospital Sydney
Planning Consultant:	Ethos Urban
Heritage Consultant:	Weir Phillips Heritage and Planning
Cost of Works:	\$1,470,488
Zoning:	The site is located in the B4 - Mixed Use zone. The proposal involves the change of use to a medical centre (mental health service), which falls within the definition of a health services facility under the Sydney LEP 2012. Health services facilities are permissible with consent in the zone.
Proposal Summary:	<p>Consent is sought for the change of use of Green Park Hotel to a medical centre (mental health service) and associated internal alterations to accommodate the following: mental health care spaces, webinar studio, offices, new internal lift and storage space.</p> <p>The proposed operating hours of the mental health care spaces are 8.00am - 10.00pm, Monday to Sunday. The proposed operating hours of the office spaces and webinar studio are 8.00am - 6.00pm, Monday to Friday inclusive.</p> <p>The application was required to be notified for a period of 21 days. The application was notified between 20 January and 11 February 2022. As a result, a total of 29 submissions were received.</p>

Submissions raised the following issues:

- Social and cultural significance of the subject site to the local community;
- The discontinuation of the historic use of the site as a pub;
- Unsuitable location for the development;
- Physical heritage impacts;
- Role of existing use in providing informal mental health support;
- Hours of operation;
- Impact on character of the locality;
- Financial loss to nearby businesses;
- Existing presence of similar uses in the locality; and
- Security and safety concerns.

The Minister's Local Planning Panel Direction identifies development that is the subject of 25 or more unique submissions by way of objection as 'contentious development' and is therefore referred to the Local Planning Panel for determination.

The proposal complies with planning controls and subject to conditions pertaining to heritage conservation the application is recommended for approval.

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

Development Controls:

- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000
- (ii) Sydney Local Environmental Plan 2012
- (iii) Sydney Development Control Plan 2012
- (iv) SEPP (Resilience and Hazards) 2021
- (v) SEPP (Biodiversity and Conservation) 2021

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings

Recommendation

It is resolved that consent be granted to Development Application No. D/2021/1531 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development complies with the objectives of the B4 Mixed use zone pursuant to the Sydney LEP 2012.
- (B) The proposal is consistent with the relevant objectives and controls of the Sydney LEP 2012 and the Sydney DCP 2012.
- (C) Subject to conditions of consent, the development will not have a detrimental impact upon the locally listed heritage item.
- (D) Subject to conditions of consent, the development will not adversely affect the character of the Darlinghurst Civic Precinct Locality or the Oxford Street and Victoria Street Heritage Conservation Area.
- (E) Subject to conditions of consent, the development will achieve the principles of design excellence.
- (F) Subject to conditions of consent, the development will not adversely impact upon the amenity of the locality.
- (G) Suitable conditions of consent have been applied and the development is considered to be in the public interest.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 21 DP 867249, known as 360 Victoria Street, Darlinghurst. It is rectangular in shape with area of approximately 250.4sqm. It has primary street frontages to both Liverpool Street to the north (27.38m) and Victoria Street to the west (9.145m). The site is located on a corner allotment, southeast of the intersection between Liverpool Street and Victoria Street. Levels on the site fall by approximately 2m from west to east.
2. The site contains a part two part three storey Federation style hotel building constructed of brick with a terracotta tiled hipped and gabled roof.
3. The site is a local heritage item, listed as item no. 1491 'Green Park Hotel including interior'. It is located within the Oxford Street and Victoria Street heritage conservation area (C12). The site is identified as a contributing building.
4. The subject building has been designed with influence from the Free Classical as well as Arts and Crafts styles, evidenced by the parapeted gables, round ventilators, multi paned upper windows, contrasting window and balcony trims, curved corner wall, arched balconies and windows, decorative chimney brickwork and general symmetry of the building. The date of construction of the existing building is recorded as 1893. Since this date it has been formally known as the Green Park Hotel and was used as a pub until it's sale and subsequent closure in 2020.
5. The surrounding area is characterised by a mixture of land uses, primarily being of a commercial nature adjoining Victoria Street and of a residential nature adjoining Liverpool Street. Land uses associated with St Vincent's Hospital are predominantly located to the south of the site, with the Victor Chang Cardiac Research Institute located at 405-429 Liverpool Street, the Kinghorn Cancer Centre at 366-382 Victoria Street and the Garvan Institute of Medical Research at 384 Victoria Street. St Vincent's Hospital is located further to the south beyond Burton Street.
6. The site is located within the Darlinghurst Civic Precinct locality.
7. The site is not identified as being subject to flooding.
8. A site visit was carried out on 9 December 2021. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Victoria Street facing east



Figure 3: Site viewed from Liverpool Street facing south

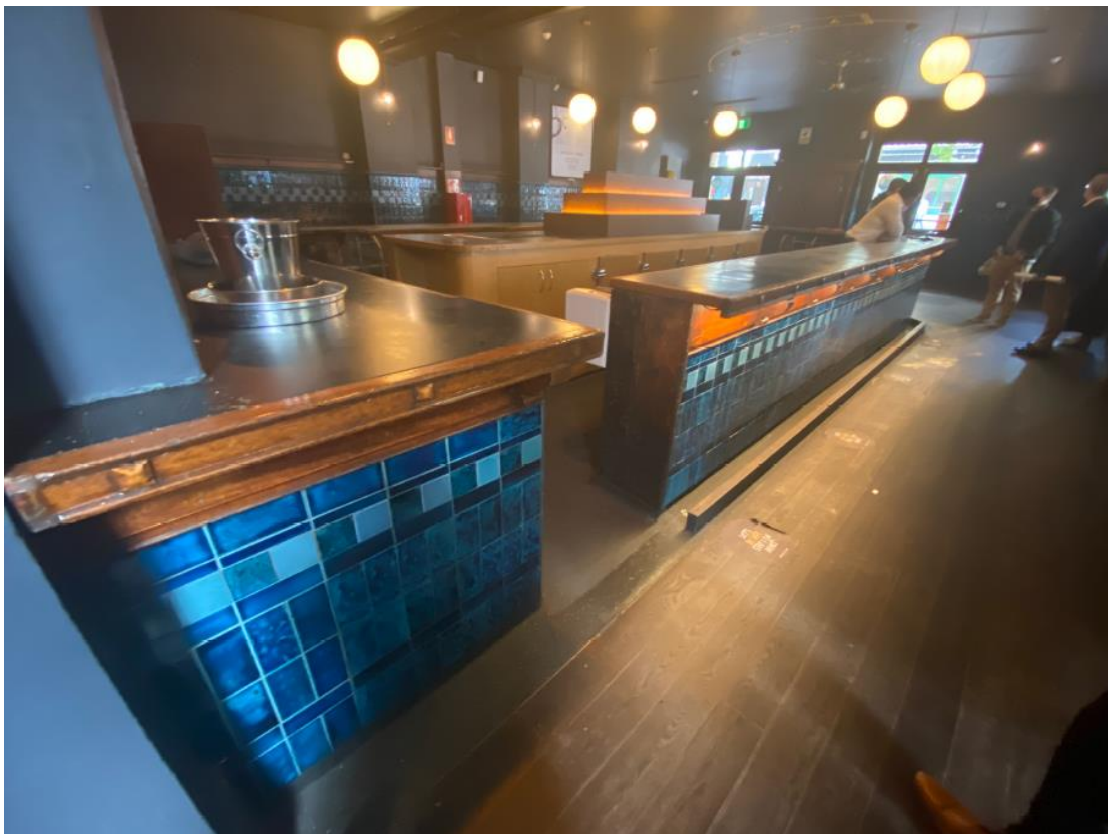


Figure 4: View of ground floor level main bar



Figure 5: View of ground floor level detailing



Figure 6: View of ground floor level showing courtyard



Figure 7: View of ground floor level facing bar



Figure 8: View of ground floor level ceiling

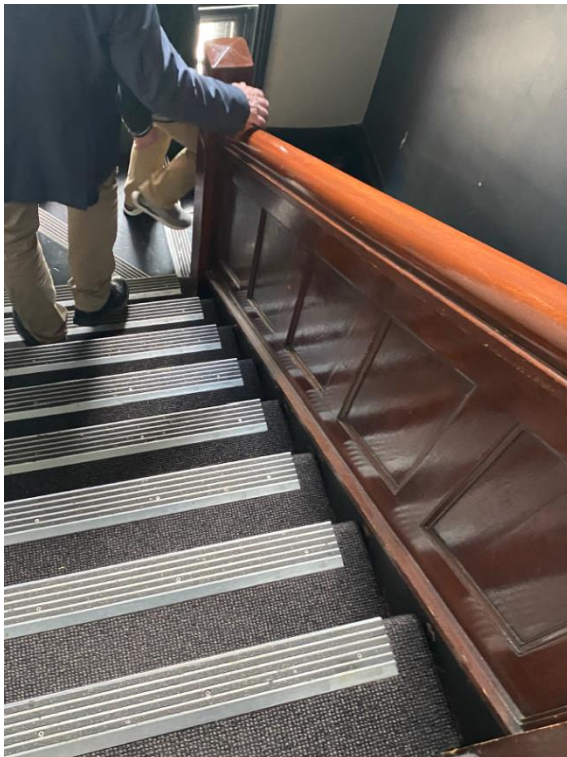


Figure 9: View of main stair

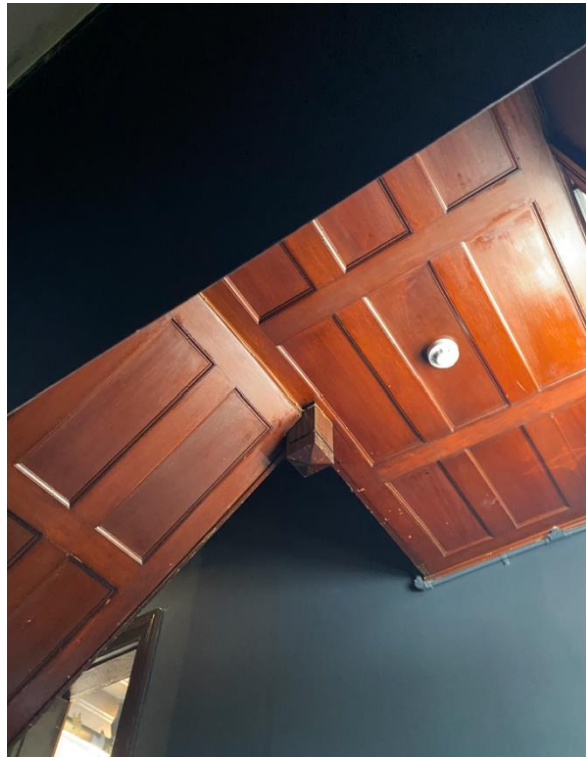


Figure 10: View of main stair underside panelling



Figure 11: View of first floor level office



Figure 12: View of first floor level office



Figure 13: View of lower ground floor level

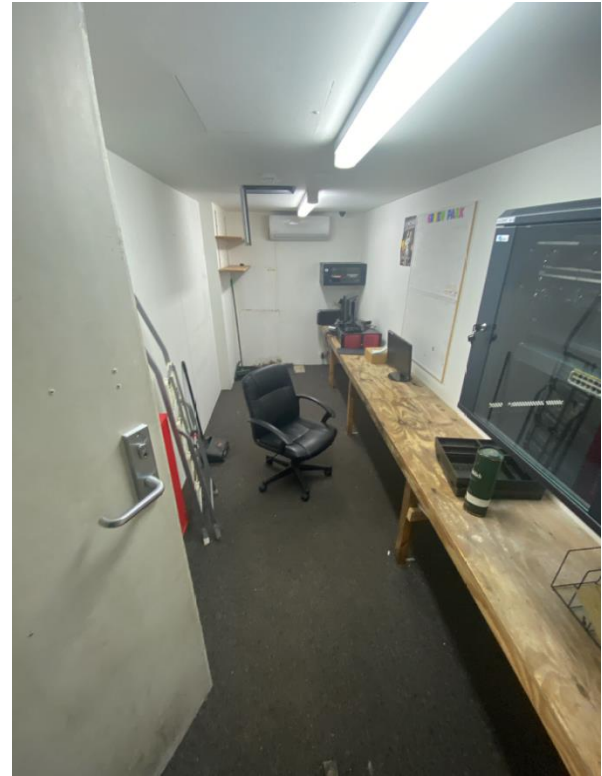


Figure 14: View of lower ground floor level

History Relevant to the Development Application

Development Applications

9. The following applications are relevant to the current proposal:
 - **PDA/2021/308** – A pre-development application meeting was held on site between Council staff and the applicant on 9 December 2021.
 - **D/2022/769** – A development application for alterations to the roof of the Green Park Hotel building including replacement of roof tiles, roof flashing, gutters, downpipes and awning roof sheeting was lodged on 1 August 2022. This application is currently being assessed.

Compliance Action

10. The site is not subject to any compliance action.

Amendments

11. Following a preliminary assessment of the proposed development by Council officers, an initial request for additional information and amendments was sent to the applicant on 16 March 2022.
12. The application has undergone several amendments over the course of the assessment period in response to Council comments. A final set of amended plans was received by Council on 18 August 2022.

13. The final set of plans include the following amendments:

(a) Changes to Proposed Lift

Concern was raised by Council staff that the location of the proposed lift would result in the unnecessary removal of substantial heritage fabric on each level of the building and the lift overrun would require a modification to the existing original roof profile.

Council's planner advised the applicant to investigate locating the proposed lift in the existing courtyard as an alternative location.

The proposed location of the lift was ultimately not amended by the applicant. Notwithstanding this, the following amendments to the lift have been made:

- (i) The lift overrun has been reduced to be completely within the external roof, having no impact to the roof profile or external fabric; and
- (ii) The lift shaft (originally proposed as concrete) has been amended to be a visually lightweight structure consisting of glazed elements. This will also result in the retention of the external first floor wall and window, originally proposed to be partially demolished.

(b) Changes to Proposed Partitions

The proposed full-height partition walls on the ground floor have been amended to help maintain the open layout of the main historic bar area.

The proposed partitions have been amended so that they are moveable, non-fixed partitions.

A condition is recommended requesting detailed and dimensioned sections and elevations that demonstrate the design, height, material and functionality of the proposed moveable partitions in the bar space.

(c) Changes to Proposed First Floor Demolition

The application proposed demolition of internal first floor walls to the west of the building.

The applicant has submitted that demolition of these walls is essential for accessibility, noting that circulation zones must include a minimum width of 1500mm.

The proposed demolition works have been amended to include retention of the existing nibs and bulkheads and to include floor markings where the original location of the removed original walls were for the purpose of heritage interpretation.

(d) Retention of Existing Bar Counter

The application proposed works which would conceal the historic bar counter, including the covering of tiles, covering of the bar countertop and installation of privacy dividers. These works were not supported due to the significant heritage impacts.

The plans have been amended to remove the works proposed to the bar counter.

(e) Retention of First Floor Stairs

The application proposed replacement of the top flight of the existing stair with a new timber stair and handrail.

Concern was raised by Council staff that removal of this section of the stair would result in a loss of original and significant heritage fabric.

The plans have been amended to retain the stair in its entirety.

(f) Retention of Pressed Metal Ceiling

The plans have been amended to confirm that the existing pressed metal ceiling on the ground floor will be retained.

(g) Addition of Bicycle Parking and Associated Facilities

The application proposed informal bicycle parking facilities including bicycle parking in unused areas of the lower ground floor level or on-street.

The plans have been amended to include formalised bicycle parking facilities within the lower ground floor level consistent with Section 3.11.3 of the Sydney DCP 2012. These include 4 secure staff bicycle parking spaces, 4 personal lockers, and a shower with change facilities.

Proposed Development

14. The application, as amended, seeks consent for the change of use of Green Park Hotel to a medical centre (mental health service) and associated internal alterations as detailed below:

Proposed Use

The primary proposed use of the building is as a community based early intervention mental health facility, staffed by clinicians, peer workers and volunteers. The mental health facility is proposed to consist of the following components located on ground floor level, as described by the application:

- 'Safe Haven' Café; and
- Multi-function health care space.

The 'Safe Haven' Café is proposed to function as a drop in and support centre for people who may be experiencing loneliness, personal difficulties, or seeking social connection. It is not proposed to operate as a commercial café open to general trade. People seeking mental health support would be able to enter the facility from Victoria Street where there will be a triage system within the entrance foyer. Staff would then assess and refer according to needs.

The multi-function health care space is proposed to facilitate a Community Creative Arts Health Hub to act as an accessible space for visual art, music and memory therapy programs, and other arts health related exhibitions and programs.

The proposed operating hours of the mental health facility components on the ground floor level are 8.00am - 10.00pm, Monday to Sunday inclusive.

Additional ancillary uses are proposed to the lower ground floor level and to the first floor level consisting of the following:

- Webinar studio; and
- Office premises.

The webinar studio, located at lower ground floor level, is proposed to be used as a permanent space for the filming of live webinars and video updates and content in association with St. Vincent's Hospital.

The office premises, located at first floor level, are proposed to accommodate the St. Vincent's Hospital Innovation and Improvement Team.

The proposed operating hours of the webinar studio and office spaces located on the lower ground floor level and first floor level are 8.00am - 6.00pm, Monday to Friday inclusive.

Demolition Works

Lower Ground Floor Level

- Removal of stairs between hallway and cellar;
- Removal of existing toilets;
- Removal of columns and internal walls within cellar; and
- Excavation for work associated with proposed lift.

Ground Floor Level

- Removal of existing southwestern entry door to Victoria Street;
- Alterations to existing bar to accommodate accessibility provisions;
- Removal of the bar island bench;
- Removal of existing toilet;
- Removal of stairs between courtyard and eastern wing of building; and

- Removal of existing horseshoe bench seating.

First Floor Level

- Removal of doors and internal partitions;
- Part removal of structural walls;
- Removal of existing toilet; and
- Removal of stairs between hallway and eastern wing of building.

Proposed Works

Lower Ground Floor Level

- Installation of lift core and lift;
- Lift landing area;
- Webinar storage room;
- Waste storage area;
- Bicycle racks and personal lockers; and
- Male, female and accessible toilets.

Ground Floor Level

- Installation of lift core and lift;
- 2x group activity rooms;
- Installation of lightweight partitions;
- New workstation within main bar;
- Automatic glazed sliding doors;
- Construction of new stairs between courtyard and eastern wing of building;
- Replacement of existing metal bars to ground floor level windows; and
- Alterations to main entry door.

First Floor Level

- Installation of lift core and lift;
- New shared office and meeting room;
- New storage room; and
- Construction of new stairs between hallway and eastern wing of building.

15. Plans and sections of the proposed development are provided below:

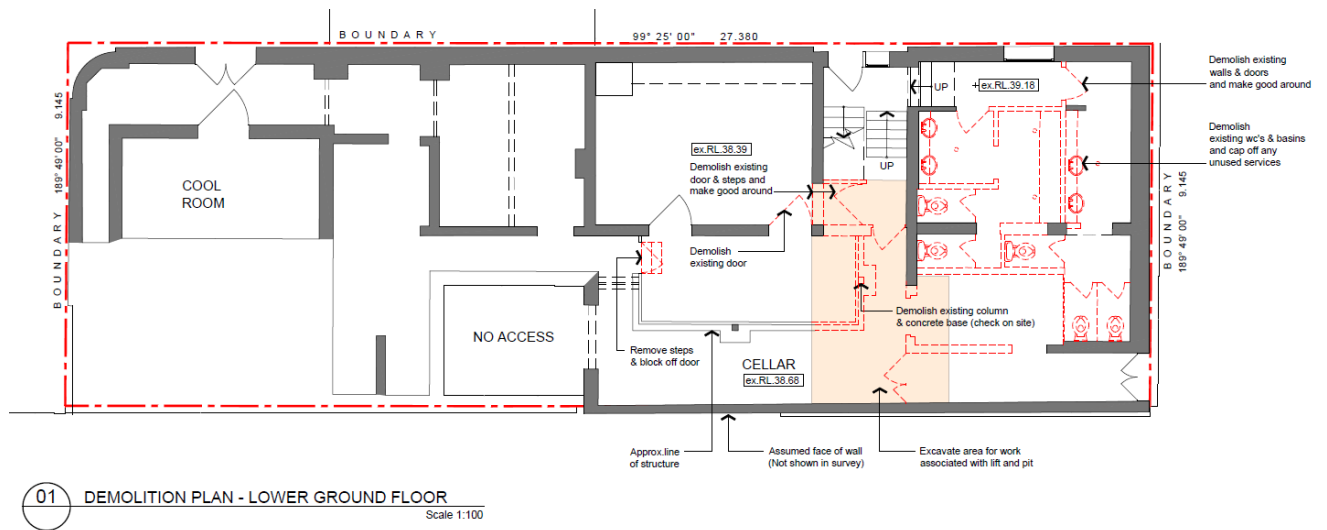


Figure 15: Lower Ground Floor Level Demolition Plan

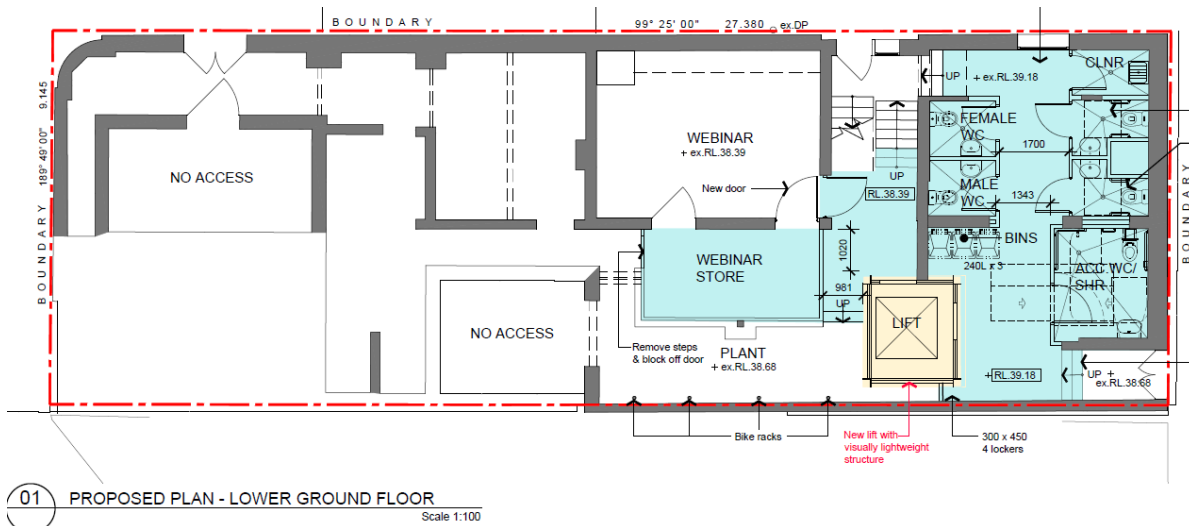


Figure 16: Lower Ground Floor Level Proposed Plan

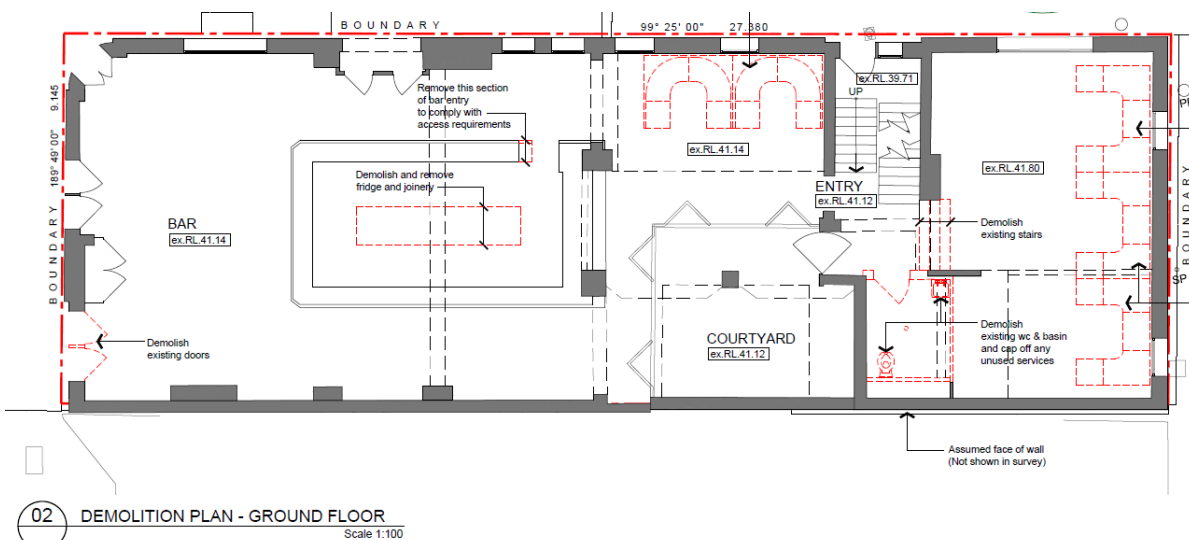


Figure 17: Ground Floor Level Demolition Plan

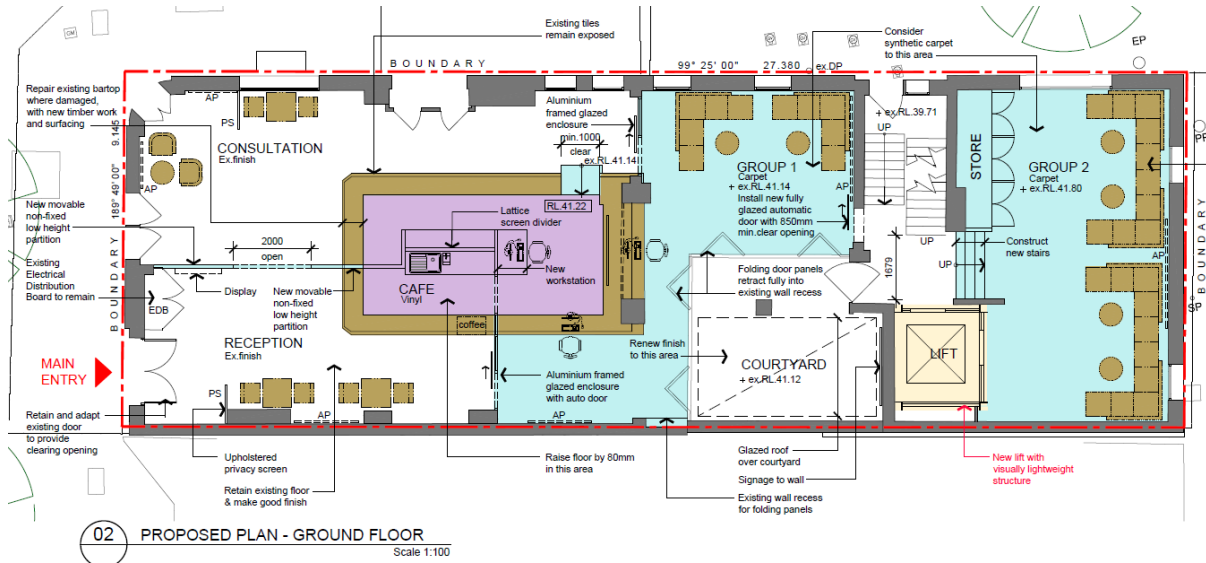


Figure 18: Ground Floor Level Proposed Plan

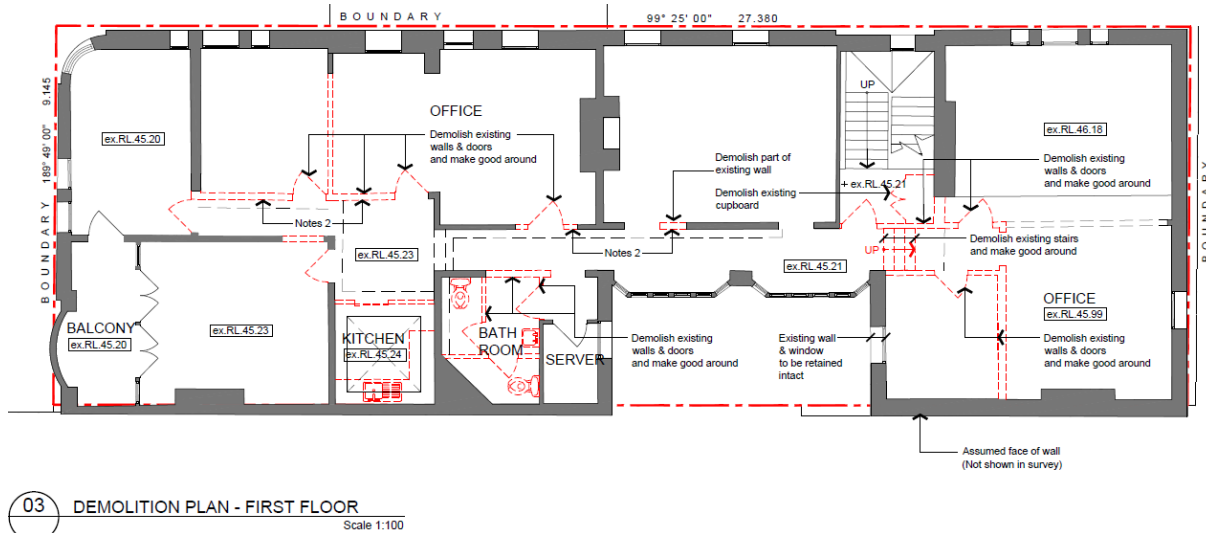


Figure 19: First Floor Level Demolition Plan

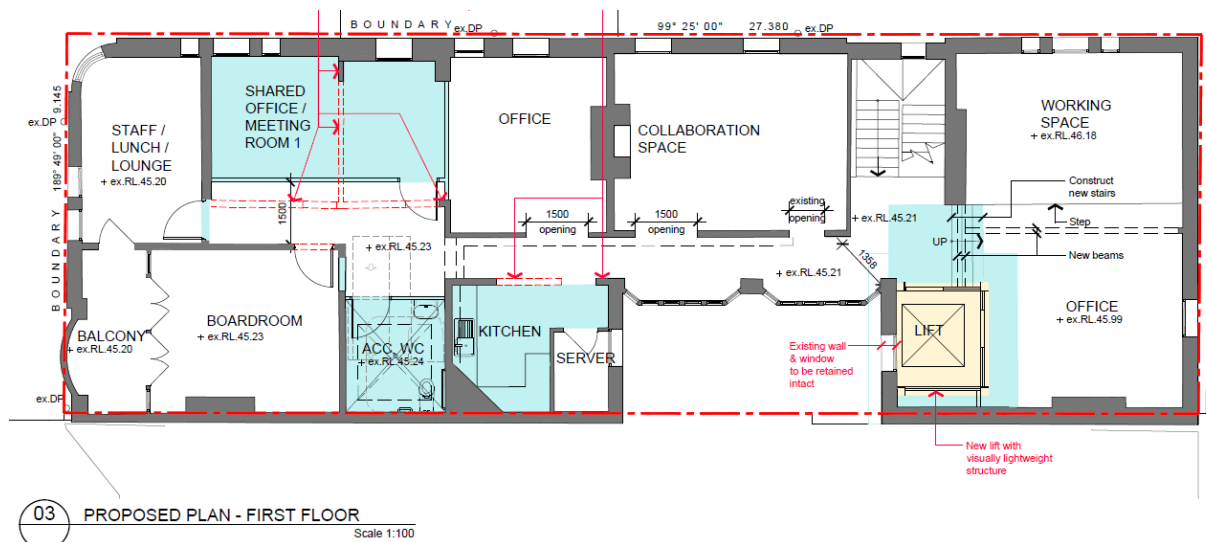
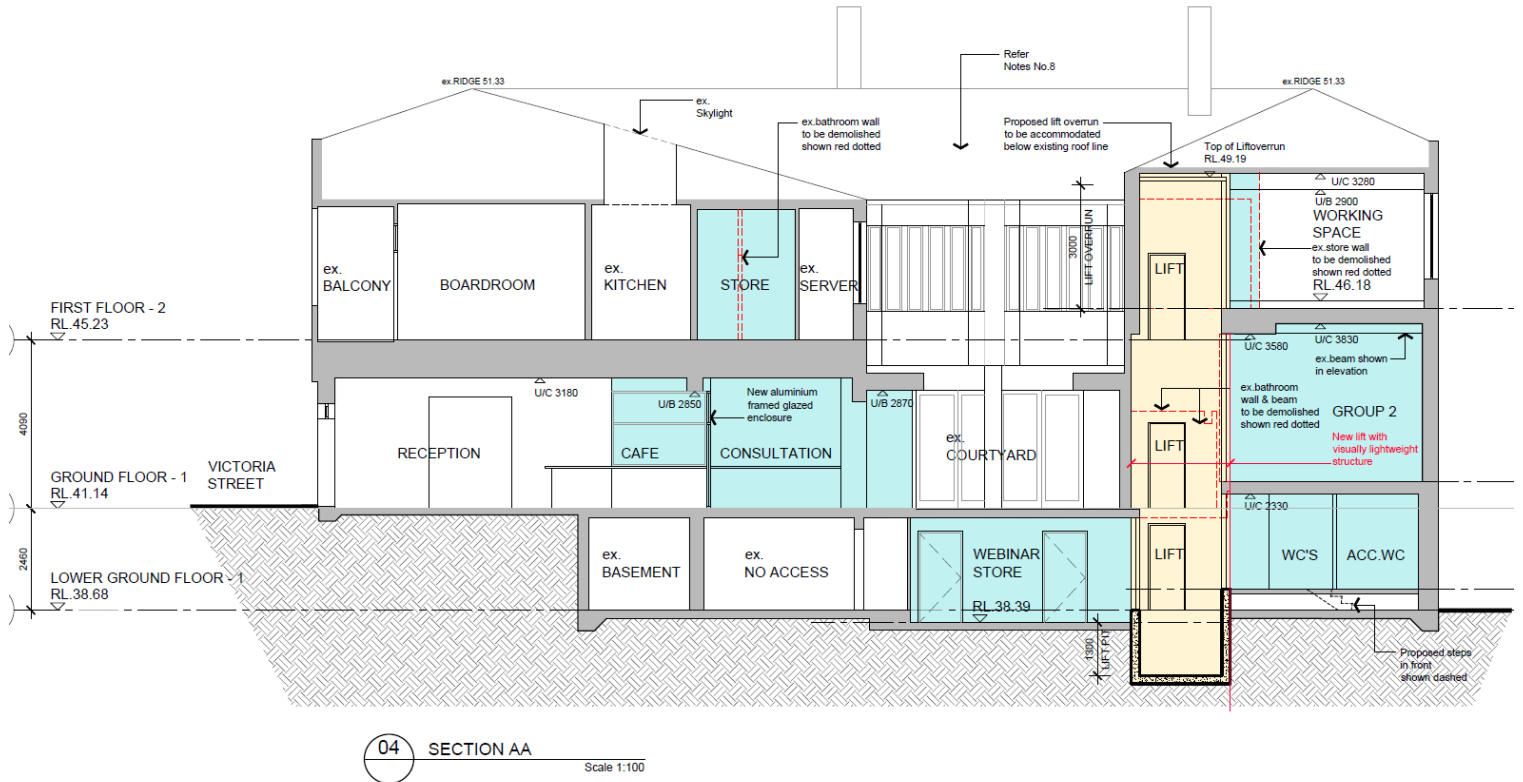
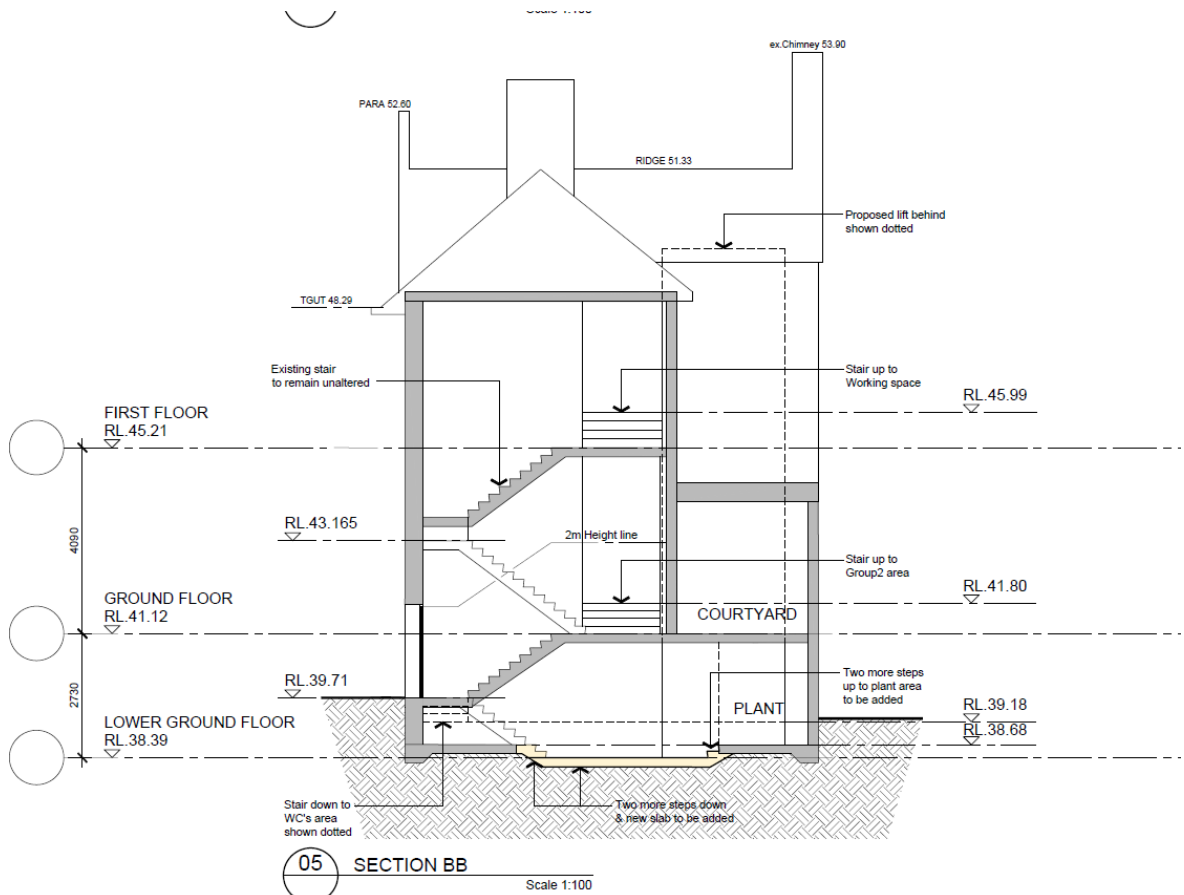


Figure 20: First Floor Level Proposed Plan



04 SECTION AA Scale 1:100

Figure 21: Proposed west-east section



05 SECTION BB Scale 1:100

Figure 22: Proposed north-south section

Assessment

16. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

Environmental Planning and Assessment Regulation 2021

17. Schedule 6, Part 1(3) of the Environmental Planning and Assessment Regulation 2021 states that:

"The 2000 Regulation continues to apply instead of this Regulation to a development application and an application for a complying development made but not finally determined before 1 March 2022"
18. The subject development application was made prior to 1 March 2022 and the Environmental Planning and Assessment Regulation 2000 applies to the proposal as a result.
19. The proposal can achieve compliance with the Building Code of Australia as required under prescribed condition - EP&A Regulation 2000 clause 98(1)(a).

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4

Remediation of Land

20. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land 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.
21. In accordance with Clause 4.6 of the Policy, the consent authority must consider a preliminary site investigation report before determining any application to carry out development that would involve a change of use for residential, educational, recreational, or child care purposes, or for the purposes of a hospital.
22. The application proposes a change of use to the site for the purpose of a medical centre (mental health service). The proposed change of use is distinct from a generalised hospital use and is therefore not privy to the requirements outlined under this clause.
23. Council's Health and Building Unit has reviewed the proposal and is satisfied that the site is suitable for the proposed use.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter

10 Sydney Harbour Catchment

24. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.

25. The site is within the Sydney Harbour Catchment and eventually drains into Sydney 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 SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

26. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	<p>The site is located in the B4 Mixed Use zone. The proposed development has several land uses, which are set out as follows:</p> <ul style="list-style-type: none"> • Medical Centre (Mental Health Service); • Office Premises; and • High Technology Industry (Webinar Studio). <p>All of the above uses are permissible with consent in the zone. The proposal generally meets the objectives of the zone.</p>

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	<p>A maximum building height of 18m is permitted.</p> <p>A height of 10.8m is proposed, which is consistent with the height of the existing building.</p> <p>The proposed development complies with the maximum height of buildings development standard.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 2:1 or 500.8sqm is permitted.</p>

Provision	Compliance	Comment
		<p>A floor space ratio of 1.69:1 or 423.18sqm is proposed.</p> <p>The proposed development complies with the maximum floor space ratio development standard.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is a local heritage item, listed as item no. I491 'Green Park Hotel including interior'.</p> <p>The site is located within the Oxford Street and Victoria Street heritage conservation area (C12). The site is identified as a contributing building.</p> <p>Subject to conditions, the proposed development will not have a detrimental impact on the heritage significance of the heritage conservation area and the heritage item.</p> <p>See further details in the 'Discussion' section below.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.13 End of journey floor space	N/A	The proposed development is not eligible for additional (end of journey) floor space given that the proposed use is not solely for the purpose of commercial premises.
Division 4 Design excellence		
6.21 Design excellence	Yes	The proposed development, as amended, is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the area.

Provision	Compliance	Comment
		<p>The proposed development is largely restricted to internal alterations and additions and will not significantly alter the existing envelope, form and external appearance of the building.</p> <p>Internally, the historic character of the building is largely retained and interpreted, notwithstanding the change in use. See further details in the 'Discussion' section below.</p> <p>The proposed uses are compatible with the existing mix of land uses in the immediate locality, particularly the adjoining health uses associated with St Vincent's Hospital.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p> <p>The development therefore achieves design excellence.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
Other land uses	Yes	No car parking spaces are proposed by the development.
Division 3 Affordable housing		
7.13 Contribution for purposes of affordable housing	N/A	The application is for alterations to an existing building located on residual land that will not result in the creation of 60 square metres or more of gross floor area (GFA) for purposes other than residential accommodation. The development is therefore excluded and is not subject to a Section 7.13 affordable housing contribution.

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.

Development Control Plans

Sydney Development Control Plan 2012

27. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

28. The site is located within the Taylor Square and Darlinghurst Civic Precinct locality. The proposed development is in keeping with the unique character and the design principles of the locality in that it effectively responds to the subject heritage item. The proposed development largely relates to internal alterations and additions and will have a negligible impact upon the wider heritage conservation area and streetscape in general.

Section 3 – General Provisions

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	<p>The development proposes appropriate interfaces with the public domain.</p> <p>The proposed development addresses both Victoria and Liverpool Streets and the public domain through its retention of the existing façade, active ground floor uses, glazing and awnings.</p> <p>The proposed development retains the existing building entries, with improvements to the main building entry from Victoria Street.</p> <p>Given the sensitive nature of the ground floor uses, it is expected a degree of privacy will be required at certain times when the consulting rooms are in use.</p>

Provision	Compliance	Comment
		A condition is recommended requiring the applicant to submit details of an internal privacy solution for the window and door openings to the consultation room on the ground floor that does not involve permanent obscured glazing.
3.9 Heritage	Yes	<p>The site is a local heritage item, listed as item no. I491 'Green Park Hotel including interior'.</p> <p>The site is located within the Oxford Street and Victoria Street heritage conservation area (C12). The site is identified as a contributing building.</p> <p>Subject to conditions, the proposed development will not have a detrimental impact on the heritage significance of the heritage conservation area and the heritage item.</p> <p>See further details in the 'Discussion' section below.</p>
3.10 Significant Architectural Building Types 3.10.3 Pubs and hotels older than 50 years	Yes	<p>The proposed development will have a negligible impact to the existing external design details of the building.</p> <p>Significant internal design details such as the main bar, ceiling details, fireplaces, wall tiles and bar tiles will be largely retained and remain unobscured.</p> <p>While the proposed use will not provide for the immediate ongoing historic use as a pub, the proposed alterations and additions to the interior will retain significant fabric and building elements from all periods of construction, allowing for potential future reinstatement of the use.</p> <p>See further details in the 'Discussion' section below.</p>
3.11 Transport and Parking	Yes	No car parking spaces are proposed by the development.

Provision	Compliance	Comment
		Bike parking and associated facilities have been proposed consistent with the rates set out in Section 3.11.3 of the Sydney DCP 2012, inclusive of 4 secure staff bicycle parking spaces, 4 personal lockers, and a shower with change facilities.
3.12 Accessible Design	Yes	<p>Accessibility within the building is greatly improved through the introduction of the proposed internal lift.</p> <p>The accessibility report provided by the applicant demonstrates that the proposed development will be able to achieve equitable access.</p> <p>Compliance with the National Construction Code is required to be demonstrated prior to the issue of a Construction Certificate.</p>
3.13 Social and Environmental Responsibilities	Yes	The proposed development retains the active frontage on the ground floor level via the retention of the facade, windows, and building entries and is therefore able to provide adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.15 Late Night Trading Management	Yes	<p>The premises is located in a Local Centre Area and the use is defined as a category C premises.</p> <p>In accordance with Section 3.15.4 of the Sydney DCP 2012, the permitted base hours are 7.00am - 2.00am the following day.</p> <p>The proposed operating hours of the mental health facility components on the ground floor level are 8.00am - 10.00pm, Monday to Sunday inclusive.</p>

Provision	Compliance	Comment
		<p>The proposed operating hours of the webinar studio and office spaces located on the lower ground floor level and first floor level are 8.00am - 6.00pm, Monday to Friday inclusive.</p> <p>The proposed operational details are compliant with the relevant Late Night Trading provisions.</p>
3.16 Signage and Advertising	N/A	<p>No signage has been proposed under this application.</p> <p>A condition of consent has been recommended to ensure a separate development application must be lodged seeking approval for a signage strategy for the building and for the subsequent erection of any additional signage.</p>

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	<p>The site is permitted a maximum building height of 5 storeys with a maximum street frontage height of 4 storeys.</p> <p>The proposed development is contained within the existing 2-3 storey building and complies.</p>
4.2.1.2 Floor to ceiling heights and floor to floor heights	N/A	<p>The proposed use of the building is for the purposes of a medical centre (mental health service).</p> <p>Existing floor to ceiling heights will remain unaltered.</p>
4.2.2 Building setbacks	Yes	No changes to building setbacks are proposed.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	The proposed development will not result in any additional overshadowing.

Provision	Compliance	Comment
4.2.3.3 Internal common areas	Yes	Internal common areas have appropriate access to daylight and an outlook.
4.2.3.4 Design features to manage solar access	Yes	No fixed shading devices or extensive glazing has been proposed. Internal privacy measures have been recommended. These may also act as sun protection.
4.2.3.5 Landscaping	N/A	The existing building is built to the site boundary. There are no existing landscaping features on the site and there remains limited opportunity for landscaping on the site given the existing footprint of the building on site.
4.2.3.6 Deep Soil	Partial compliance	No deep soil is currently provided on the site, nor can any deep soil be proposed based on the existing footprint of the building on site.
4.2.3.11 Acoustic privacy	Yes	The acoustic privacy of adjacent residential uses is unlikely to be impacted by the proposed use given the sensitive and personal nature of the operations associated with a mental health facility and the absence of any late night trading past 10.00pm. It is also important to note that the proposed use is a deintensification of the historic use of the site as a pub. The application has been reviewed by Council's Health and Building Unit who advised that the proposal is acceptable subject to conditions.
4.2.6 Waste and recycling Management	Yes	A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

Provision	Compliance	Comment
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	Subject to conditions, the development will not adversely impact the amenity of neighbouring residential properties.

Discussion

Heritage

29. The site is a local heritage item, listed as item no. 1491 'Green Park Hotel including interior'. The site is located within the Oxford Street and Victoria Street heritage conservation area (C12) and is identified as a contributing building.
30. The State Heritage Inventory identifies the Green Park Hotel as having local historic, aesthetic and social significance. The assessment of significance is reproduced below:

Criteria a) Historical Significance - Dates from a key period of the development of Darlinghurst and represents a period of the history of the area when it was predominantly working class. There has been a hotel on the site continuously since at least 1880.

Criteria c) Aesthetic/Technical Significance - It has aesthetic significance as a fine example of a Federation hotel, with influences of Free Classical and Arts and Crafts styles, located on a prominent corner which strongly contributes to the streetscape.

Criteria d) Social Significance - The hotel is held in high esteem as a social and recreational venue for nearby workers and residents.

Criteria g) Representative - Representative example of a Federation period hotel demonstrating influences of the Free Classical and the Arts and Crafts styles.

31. The proposal to change the use of the Green Park Hotel to a medical centre (mental health service) use has the potential to impact upon the historical and social significance of the site by discontinuing the historic use of the site as a pub.
32. The site has been used continuously as a pub since the late nineteenth century. As a result, there is significant historical and social value tied to the building through this use. In particular, it is important to acknowledge the social significance that the historic use as a pub has to the LGBTQI+ community, to whom it has existed as an important meeting place and centre for social interaction.
33. While the use of the site as a pub is original and significant, there are no relevant planning controls that require either the use to be continued in perpetuity or that prevent it from being changed.
34. The proposed development seeks to change the use to a medical centre (mental health service) which is a use permissible use within the B4 - Mixed Use zone.

35. Section 3.9.5(1)(d) of the Sydney DCP 2012 establishes that any development affecting a heritage item is to provide a use compatible with its significance and which with any changes proposed, including any BCA upgrade or the introduction of services will have minimal impact on significant fabric, elements or spaces.
36. The process of reusing an existing building for a purpose other than which it was originally built or designed for is a practice commonly known as 'adaptive re-use'. The practice is identified in the Burra Charter as 'adaption' and is subject to the following principles:
- 21.1 Adaptation is acceptable only where the adaptation has minimal impact on the cultural significance of the place.
- 21.2 Adaptation should involve minimal change to significant fabric, achieved only after considering alternatives.
37. The proposed use, while having some impact on the social significance of the building as a pub, will enable a continuation of its community focused use by providing the local community with a dedicated space where people can readily seek mental health support. The continuation of such a community focused use does not diminish the social significance of the site but rather enables an appropriate transition and evolution of this significance to cater for the changing needs of the community.
38. Further, the proposed facility will extend the social presence of St Vincent's Hospital for the community. The State Heritage Inventory identifies the social significance of this institution within the Oxford Street and Victoria Street Heritage Conservation Area as detailed below:
- The area has historic significance for the important institutions that are to be found within it including St. Vincent's Hospital, the Sacred Heart Church, School (former) and Hospice and St. John's Church and School (former). Considerable social significance arises out of the presence of these institutions for over 150 years.
39. The proposed change of use reflects the social changes in Darlinghurst from its working class roots to a highly valued and required health precinct and the ability of the building to be adaptively reused to remain relevant and maintained.
40. The proposed use in principle is considered compatible with the significance of the site, is an appropriate response to the surrounding character of the area and will not have an unreasonable impact on the cultural significance of the place.
41. This assessment is further supported by the physical works proposed, which through consultation as part of the assessment of this application, are to be amended as discussed under the sub heading 'Amendments' above.
42. The proposed physical works, as amended, will have minimal impact on significant fabric, elements and spaces, allowing the original use of the building as a pub to be effectively understood through retention of significant elements such as the wall and bar tiles, staircases, fireplaces, ceiling and layout of the main bar.
43. The proposed works are limited to the interior fabric of the building and will have a negligible impact to the existing external design details of the building, retaining its aesthetic and representative significance to the streetscape.

44. Retention and continued display of significant internal fabric, along with sympathetic and reversible alterations as proposed and conditioned, will allow for potential future removal of new work and increase the potential of the historic pub use being reinstated in the future.
45. Overall, on balance the revised design and proposed change of use will not unreasonably reduce or obscure the heritage significance of the item and will have no significant impact on the wider heritage conservation area or the buildings contribution to the area.
46. The proposed development, as amended, has been reviewed by Council's Heritage Specialists and is supported subject to several recommended conditions of consent, including but not limited to, the requirement of a schedule of heritage conservation works, heritage interpretation plan, photographic archival documentation and the continued use of a heritage consultant throughout the construction stages of the project.

Consultation

Internal Referrals

47. The application was discussed with Council's:
 - (a) Building Services Unit;
 - (b) Environmental Health Unit;
 - (c) Heritage & Urban Design Unit;
 - (d) Public Domain Unit;
 - (e) Transport and Access Unit; and
 - (f) Waste Management Unit.
48. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

NSW Police

49. The application was referred to NSW Police for comment.
50. No response was received.

Advertising and Notification

51. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 20 January 2022 and 11 February 2022. A total of 174 properties were notified and 29 unique submissions were received.

52. The submissions raised the following issues:

- (a) **Issue:** The subject site holds important social and cultural significance to the local community and several minority groups. The intangible heritage of the site needs to be considered and preserved.

Response: It is acknowledged that there is significant historical and social value tied to the building through its historic use as a pub, in particular to the LGBTQI+ community.

The proposed use, while having some impact on the social significance of the building as a pub, will however continue to provide a use that is community focused and addresses an important community need. Notwithstanding the obvious differences in the nature of the two uses, the proposed mental health facility will continue to act as a hub for social connection and a place where inclusiveness and diversity is welcomed and valued.

To this effect, it is considered that the intangible heritage of the site and its social and cultural significance can be interpreted and continued through the proposed use as mental health facility.

- (b) **Issue:** The historic use of the site as a pub should be continued.

Response: While the use of the site as a pub is original and significant, there are no relevant planning controls that require either the use to be continued in perpetuity or that prevent it from being changed.

While the proposed use will not provide for the immediate ongoing historic use as a pub, the proposed alterations and additions to the interior will retain significant fabric and building elements from all periods of construction, providing the greatest opportunity for potential reinstatement of the use in the future.

- (c) **Issue:** An alternative location within the locality would be more suitable for this use.

Response: The site is located in the B4 Mixed Use zone. The proposed use is permissible with consent in the zone and the proposal generally meets the objectives of the zone.

- (d) **Issue:** The proposed development will remove and conceal significant heritage fabric.

Response: The proposed physical works, as amended, will have acceptable impact on significant fabric, elements and spaces, allowing the original use of the building as a pub to be effectively understood through retention of significant elements such as the wall and bar tiles, staircases, fireplaces, ceiling and layout of the main bar.

The proposed works are largely limited to the interior fabric of the building and will have a negligible impact to the existing external design details of the building, retaining its aesthetic and representative significance to the streetscape.

- (e) **Issue:** The historic use of the site as a pub provided an existing, informal form of mental health support through social interaction.

Response: As discussed, while the use of the site as a pub is original and significant, there are no relevant planning controls that require either the use to be continued in perpetuity or that prevent it from being changed.

Notwithstanding this, the proposed use will continue to serve the community, and provide mental health support, albeit in a different, more targeted and formalised manner.

- (f) **Issue:** The proposed hours of operation are not clear.

Response: The proposed operating hours of the mental health facility components on the ground floor level are 8.00am - 10.00pm, Monday to Sunday inclusive.

The proposed operating hours of the webinar studio and office spaces located on the lower ground floor level and first floor level are 8.00am - 6.00pm, Monday to Friday inclusive.

- (g) **Issue:** The addition of another health use will impact on the character of the locality.

Response: The proposed mental health facility will extend the social presence of St Vincent's Hospital for the community. The State Heritage Inventory identifies St Vincent's Hospital as an important institution that holds considerable social significance arising from its presence in the locality for over 150 years. .

- (h) **Issue:** The change of use will result in a loss to nearby business.

Response: The proposed use will reactivate the site which is currently vacant. The proposed use will generate employment and provide an active use that intends to service the local community and people travelling from other parts of Sydney to use the facility.

- (i) **Issue:** The proposed use is not required as visitor numbers to the area are decreasing and there are other existing facilities.

Response: The proposed use is considered to support the viability of the locality and is considered an appropriate extension to the existing array of health uses in the immediate vicinity of the site. The main intent of the proposed use is to service the local community.

- (j) **Issue:** By moving the proposed use from St Vincent's Hospital to a more residential area, this is likely to introduce some security and safety concerns held by members of the community.

Response: The proposed use is permissible with consent within the B4 Mixed Use Zone. This zone seeks to provide a mixture of compatible land uses, including residential uses and other uses.

The proposed use (a notable deintensification of the historic use of the site as a pub) is proposed to operate between the hours of 8.00am - 10.00pm, Monday to Sunday inclusive.

When open, the proposed facility will be constantly staffed by clinicians, peer workers and volunteers who will be monitoring patients entering and exiting the facility. Further, the building has been designed to provide adequate passive surveillance at ground floor level.

The proposed use is therefore not considered to result in an unreasonable impact to the level of security and safety experienced by neighbouring residents.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

53. The development is not subject to a Section 7.11 development contribution as it will not result in a net population increase in accordance with Section 2.1 of the Plan and is therefore excluded from the need to pay a contribution.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

54. As the development is development located in residual lands for purposes other than residential accommodation that will result in the creation of less than 60 square metres of gross floor area, the development is excluded as is not subject to a Section 7.13 affordable housing contribution.

Relevant Legislation

55. Environmental Planning and Assessment Act 1979.

Conclusion

56. The proposal, as amended, is compatible with the significance of the site, is an appropriate response to the surrounding character of the area, and will not have an unreasonable impact on the cultural significance of the place.
57. The design changes to the development are well considered and the applicant has responded positively to comments from Council officers.
58. Having regard to the above, the proposed development will not result in any adverse impacts to both the natural and built environment and the locality, is suitable for the site, and is in the public interest, subject to recommended conditions of consent.

59. The proposed development generally satisfies the relevant provisions of the applicable State Environmental Planning Instruments including the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012 and is acceptable.
60. Issues raised in all submissions have been taken into account in the assessment, and, where appropriate, conditions of consent have been included in the Notice of Determination to address these issues.

ANDREW THOMAS

Executive Manager Planning and Development

Connor Mayoh, Planner

Attachment A

Recommended Conditions of Consent
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SCHEDULE 1

CONDITIONS OF CONSENT

PART A - GENERAL

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application Number D/2021/1531 dated 29 December 2021 and the following drawings prepared by Boffa Robertson Group:

Drawing Number	Drawing Name	Date
DA01 E	Demolition Plans	10 August 2022
DA02 E	Proposed Floor Plans	10 August 2022
DA03 E	Reflected Ceiling Plans	10 August 2022
DA04 E	Elevations & Section	10 August 2022

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.

Reason

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

(2) EXISTING STAIRCASE - NO WORKS APPROVED

No consent is granted or implied for any works to the existing staircase, which must remain unaltered.

Reason

To ensure that the existing staircase does not comprise any part of the approved development works.

(3) DESIGN MODIFICATIONS

The design of the development must be modified as follows:

- (a) An internal privacy solution for the window and door openings to the consultation room on the ground floor is to be shown on drawings at a scale of 1:20 or 1:50 that is sympathetic to the heritage character of the building. This is not to include obscure glazing.

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

Reason

To require amendments to the approved plans and supporting documentation following assessment of the development.

(4) DESIGN DETAILS

The following design details must be provided as follows:

- (a) Lift design, construction and materials details, drawn at a scale of 1:20.
- (b) Detailed and dimensioned sections/elevations drawn at a scale of 1:20, including the design of the proposed moveable partitions over the bar counter, and installation details including support required to install partitions across the bar counter.
- (c) Details of the adaptation of the existing set of swing doors on Victoria Street to be accessibly compliant doors like for like in architectural style and detail to the existing and adjacent doors, drawn at a scale of 1:20.

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

Reason

To require the provision of additional design details and supporting documentation following assessment of the development.

(5) GENERAL HERITAGE

- (a) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.
- (b) The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction. The protection measures are to be specified in the construction management plan.
- (c) All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 2013.
- (d) New services are to be surface mounted rather than chased-in to existing walls to minimise impact on heritage fabric.
 - (i) New services must use existing service runs;
 - (ii) Where this is not possible, details of an alternative solution must be shown on drawings at a suitable scale and submitted and approved

by Council's Urban Design and Heritage Manager / Area Planning Manager prior to the issue of any Construction Certificate.

- (e) Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.
- (f) The new windows and doors on the existing building must match the original materials.
- (g) The face brickwork/stone/tiles must not be rendered, painted or coated.
- (h) Where internal partitions meet external walls they must abut window mullions, columns or other such building elements and not glazing.

Reason

To ensure that the development does not result in adverse heritage impacts.

(6) MATERIALS FOR MAKING GOOD

New materials for making good and repairs, are to match the existing in terms of colours, finishes, sizes, profile and properties.

Reason

To ensure appropriate materials and finishes are used.

(7) EXTERNAL LIGHTING - SEPARATE DEVELOPMENT APPLICATION REQUIRED

A separate development application is required to be lodged and approved prior to any external floodlighting or illumination of the building or site landscaping.

Reason

To clarify that consent has not been granted for the external floodlighting or illumination of the development.

(8) AIR CONDITIONERS GENERALLY

No air-conditioning equipment is to be visible from the public domain. Equipment and associated wiring must:

- (a) Not be located on awnings or attached to the face of the building
- (b) Not be located on roofs in such a way that it is visible from any street, footpath or park
- (c) Be visually screened if located 1.8 metres above ground level in other locations
- (d) Wiring must be fully concealed.

Reason

To ensure the visual impact of air conditioners is minimised.

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

Approval is not granted for the installation of any individual air conditioning units to the facade or balconies of the building.

Reason

To clarify the scope of the consent.

(10) PARTITION WALLS

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

Reason

To ensure an appropriate design outcome.

(11) 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.

Reason

To ensure no element of the development obstructs the use of the public way.

(12) 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.

Reason

To ensure there are no obstructions on public footways and paths of travel.

(13) SIGNAGE STRATEGY

A separate development application is to be submitted seeking approval of a signage strategy for the building. The signage strategy development application must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

Reason

To require separate consent to be obtained for a signage strategy.

(14) SIGNAGE - SEPARATE DEVELOPMENT APPLICATION REQUIRED

A separate development application for any signage (other than exempt or complying signage) must be submitted to and approved by Council prior to the erection or display of any such signage

.Reason

To require separate consent to be obtained for any signage.

(15) SIGNS/GOODS IN THE PUBLIC WAY

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

Reason

To ensure the public domain is kept free from physical obstructions.

(16) PRESERVATION AND REINSTATEMENT OF PUBLIC ASSETS

The developer must ensure that all existing public assets are retained and preserved for the duration of development works.

Any damage caused to public assets as a result of development works, including but not limited to damage to footpath, kerb and gutter, signage, survey marks, street furniture, utility pit lids, lighting, street trees and adjacent carriageways are to be rectified to Council's satisfaction.

Any rectification works must be completed in accordance with Council's specifications and requirements prior to the use of the development commencing.

Reason

To ensure that the public domain is preserved for the duration of development works.

(17) 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.

Reason

To ensure ground surface indicators, handrails and other elements required to provide access into the building/property are appropriately located.

(18) WASTE AND RECYCLING MANAGEMENT

The proposal must comply with the relevant provisions of Council's *Guidelines for Waste Management in New Developments 2018* which requires facilities to

promote the efficient storage, separation, collection and handling of waste to maximise resources recovery.

Reason

To ensure that waste and recycling is appropriately managed.

PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

(19) BCA COMPLIANCE – ALTERATIONS AND ADDITIONS – UPGRADE OF BUILDING IS REQUIRED

- (a) Pursuant to Clause 94 of the *Environmental Planning and Assessment Regulation, 2000*, the whole building must comply with the following Parts of the Building Code of Australia (BCA):
- (i) Fire resistance and stability – Part C1;
 - (ii) Compartmentation and separation – Part C2;
 - (iii) Protection of openings – Part C3;
 - (iv) Provision for escape – Part D1;
 - (v) Construction of exits – Part D2;
 - (vi) Fire fighting equipment – Part E1; and
 - (vii) Smoke hazard management – Part E2.
 - (viii) Visibility in an emergency, exit signs and warning systems – Part E4.
- (b) If compliance with the conditions listed in (a) above cannot be achieved through the deemed-to-satisfy pathway, a performance solution in accordance with Part A2 of the BCA must be prepared and submitted to the Registered Certifier illustrating how the relevant performance provisions are to be satisfied, and must form part of the approval prior to a Construction Certificate being issued.

Reason

To ensure the works comply with relevant regulations.

(20) STRUCTURAL CERTIFICATION FOR DESIGN – BUILDING CODE OF AUSTRALIA (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 the Accredited Certifier.

Reason

To ensure structural certification is undertaken.

(21) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS

A qualified practising registered structural engineer must provide structural certification to Council (where Council is the Accredited Certifier) verifying that the existing structure can adequately support the proposed new loads and the

structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the *Building Code of Australia* prior to a Construction Certificate being issued.

Reason

To ensure the existing structure can support the new loads.

(22) 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	Number	Requirements
Non-residential	4	Spaces must be Class 2 bicycle facilities
End of Trip Facility Type	Number	
Showers with change area	1	
Personal lockers	4	

Notes:

- (i) If a basement storage area on title that is large enough to store a bike and is no smaller than a class 1 bike locker this can be counted as a space.
- (b) The layout, design and security of bicycle facilities must comply with the minimum requirements of Australian Standard AS 2890.3 Parking Facilities Part 3: Bicycle Parking Facilities. The details must be submitted to and approved by the Accredited Certifier confirming prior to and form part of the Construction Certificate being issued.

Reason

To ensure the allocation of bicycle parking is in accordance with Australian Standards and Section 3.11.3 of the Sydney Development Control Plan 2012.

(23) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

- (a) A Construction Traffic Management Plan must be submitted to and approved by Council's Area Planning Manager or Area Coordinator prior to a Construction Certificate being issued.
- (b) The Construction Traffic Management Plan must be prepared in accordance with the requirements published on the City's website at:

<https://www.cityofsydney.nsw.gov.au/construction-permits-approvals/prepare-construction-traffic-management-plan>

- (c) The approved plan must be complied with during any demolition and/or construction work.

Reason

To ensure that the impacts of construction traffic is appropriately managed.

(24) BUILDING WORKS TO COMPLY WITH THE BUILDING CODE OF AUSTRALIA – HERITAGE BUILDINGS OR BUILDINGS WITHIN CONSERVATION AREA

Any building works required to ensure compliance with the Building Code of Australia or new building standards not specified in the submitted/approved plan must not damage existing fabric and building features. If such upgrading works have impact or potentially have impact on existing fabric and features, details of the works must be submitted and approved by Council's Area Planning Manager prior to issue of any Construction Certificate.

Reason

To ensure an appropriate heritage outcome.

(25) HERITAGE CONSERVATION WORKS

- (a) Prior to the issue of the Construction Certificate, a schedule of conservation works to be undertaken concurrent with the works is to be submitted to Council's Urban Design and Heritage Manager for approval.
- (b) The schedule is to detail the conservation of all fabric identified as having a heritage value, including but not limited to the following: street awning, stonework, brickwork, door and window joinery, glazing, hardware, pavements, tiling, roof plumbing, roofing and painting
- (c) The schedule is to be supported by outline specifications, methodologies and detailed architectural sections, elevations and plans at 1:20 and 1:5 scales. The details should incorporate any structural and/or building services design for the building.
- (d) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building.
- (e) All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 2013. Appropriately qualified contractors and tradespersons are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works within the heritage building.
- (f) **INSPECTION AND APPROVAL:** The conservation works are to be progressively inspected by and be implemented to the satisfaction of Council's Urban Design and Heritage Manager prior to the issue of any

Occupation Certificate or commencement of the use, whichever is the earlier.

Reason

To ensure the carrying out of appropriate heritage conservation works.

(26) HERITAGE INTERPRETATION PLAN

- (a) An interpretation plan for the Green Park Hotel must be submitted to and approved by Council's Urban Design and Heritage Manager or Area Planning Manager prior to a Construction Certificate being issued. The plan is to be prepared by a suitably qualified and experienced heritage practitioner or historian.
- (b) The interpretation plan must detail how information on the history and significance of the Green Park Hotel will be provided for the public and make recommendations regarding public accessibility, signage and lighting. Public art, details of the heritage design, the display of selected artefacts are some of the means that can be used.
- (c) The plan must specify the location, type, making materials and contents of the interpretation device being proposed.
- (d) Prior to the issue of an Occupation Certificate, the approved interpretation plan must be implemented to the satisfaction of Council's Urban Design and Heritage Manager or Area Planning Manager.

Reason

To ensure that the heritage of the site is appropriately interpreted and incorporated into the development.

(27) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION

Prior to a Construction Certificate being issued, an archival photographic recording of the Green Park Hotel is to be prepared to Council's satisfaction. The recording is to be in digital form and prepared in accordance with the NSW Heritage Division 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 or digital file transfer in PDF/A format, (created directly from the digital original), with the digital catalogue of images containing the following data for each location, image subject/description and date.
- (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.

Reason

To ensure appropriate archival documentation of the building.

(28) 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.

Reason

To ensure the ventilation complies with relevant standards.

(29) 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.

Reason

To ensure the provision of water efficient toilets.

(30) INSTALLATION OF WATER EFFICIENT TAPS

All taps and 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.

Reason

To ensure the provision of water efficient taps.

(31) 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.

Reason

To ensure the provision of water efficient urinals.

(32) 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.

Reason

To ensure that utility authorities are advised of the development and their approval is obtained in connection with the relocation and/or adjustment of services affected by the development.

(33) WASTE AND RECYCLING MANAGEMENT

- (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, which meets the requirements as set out in Council's *Guidelines for Waste Management in New*

Developments 2018, is to be approved by the Principal Certifier prior to a Construction Certificate being issued.

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*.

Reason

To ensure that waste and recycling is appropriately managed.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

(34) 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 and Recycling Management Plan – Demolition and Construction for the demolition and or excavation of the proposed development. The plan is to include details of materials that will be excavated and their proposed destination or reuse.
 - (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 Council'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 *Guidelines for Waste Management in New Developments 2018*, 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 NSW.
 - (xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the SafeWork NSW.
 - (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.
 - (xxi) Any SafeWork NSW 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.

- (d) All waste records from the recycling and/or disposal of any demolition and construction waste generated from the works must be retained on site. These records must be available for sighting on request by an authorised Council officer.

Reason

To ensure that impacts arising from demolition, excavation and construction are appropriately managed.

(35) ROAD OPENING APPLICATION

A separate road opening application under Sections 138/139 of the *Roads Act, 1993* must be submitted to and approved by 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).

Reason

To ensure that approval under the Roads Act is obtained.

(36) DISPOSAL OF SURPLUS SALVAGED MATERIALS

Salvaged traditional building materials surplus to the requirements of this project, including any stone, bricks, structural timber, pressed metal ceilings, floorboards, staircases, and joinery, are to be sold to an established dealer in second-hand heritage building materials. Documentation of the salvage methodology must be submitted for the approval of Council's Area Planning Manager or Area Coordinator, prior to the commencement of demolition.

Reason

To ensure the salvaging and reuse of traditional building materials.

(37) 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 or Area Planning Manager.

Reason

To ensure that the potential impact of rodents during the demolition, excavation and construction phase is appropriately managed.

(38) 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 Sections 138/139 of the *Roads Act, 1993* must be submitted to and approved by 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 Sections 138/139 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*).

Reason

To ensure the necessary approval is obtained for temporary structures over a public road.

(39) OTHER APPROVALS

Any activity which is proposed to be undertaken in, on or above a road reserve or the public domain (including a public footway) must have separate approval(s) obtainable through the lodgement of an application under Section 68 of the *Local Government Act, 1993* and/or Section 138/139 of the *Roads Act, 1993* prior to the commencement of work/activities within the road reserve/public domain. Such activities include but not limited to:

- (a) installation of construction-related temporary structures including hoardings/scaffolding;
- (b) installation and/or alterations to advertising/business signs;
- (c) installation and/or alterations to street awnings;
- (d) crane operation and other hoisting activities;
- (e) temporary works (e.g. barricading, road openings, mobile hoisting devices);
- (f) works zones (for loading and unloading from the roadway); and
- (g) temporary ground anchoring and shoring to support a roadway when excavating; and
- (h) any other structure or encroachment including facade elements/architectural features.

Reason

To ensure use of a public place is managed appropriately.

(40) STREET TREE PRUNING

- (a) The consent from Council's Tree Management Officer must be obtained prior to the undertaking of any street tree pruning works including tree roots greater than 30mm diameter. Only minor pruning works will be approved by Council.

- (b) Any pruning that has been approved by Council, must be carried out by a qualified Arborist (AQF3), and must be in accordance with AS4373 Australian Standards 'Pruning of Amenity Trees'.

Reason

To ensure that approval is obtained for any pruning works to the City's street trees and that such works are carried out in an appropriate manner.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

(41) HOURS OF WORK AND NOISE

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 (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 7.30am 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 separate application being submitted to and approved by Council under Section 68 of the *Local Government Act, 1993* and Sections 138/139 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 Team, 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*.

Reason

To protect the amenity of the surrounding area.

(42) 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 must 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.

Reason

To ensure that the handling and removal of asbestos from the site is appropriately managed.

(43) 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.

Reason

To protect the amenity of the surrounding area.

(44) 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.
- (f) All notices and signs must be displayed in locations as specified in the City's Guidelines for Hoardings and Scaffolding.

Reason

(Prescribed condition *Environmental Planning and Assessment Regulation, 2000*).

(45) 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:

- (i) 9.00am-12.00pm and 1.00pm-4.00pm Mondays to Fridays;
 - (ii) 9.00am-1.00pm on Saturdays; and
 - (iii) No work is 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*.

Reason

To protect the amenity of the surrounding area.

(46) EROSION AND SEDIMENT CONTROL

Where less than 250 square metres are being disturbed, no formal plan is required however, the site is to be provided with sediment control measures and these must be implemented so that sediment, including soil, excavated material, building material or other materials cannot fall, descend, percolate, be pumped, drained, washed or allowed to flow to the street, stormwater system or waterways.

Reason

To ensure that appropriate erosion and sediment control measures are put in place during construction to protect the environment.

(47) CLASSIFICATION OF WASTE

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the *Environment Operations Act 1997* and the *NSW DECC Waste Classification Guidelines, Part1: Classifying Waste (July 2009)*. The classification of the material is essential to determine where the waste may be legally taken. The *Protection of the Environment Operations Act, 1997* provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

Reason

To ensure that waste from site is classified and disposed of appropriately.

(48) IMPORTED FILL MATERIALS

All fill imported onto the site must 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.

Reason

To ensure that imported fill is not contaminated.

(49) NOTIFICATION – NEW CONTAMINATION EVIDENCE

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

Reason

To ensure that the site is appropriately remediated.

(50) STOCKPILES

- (a) No stockpiles of soil or other materials must 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 must 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 must be covered.
- (d) All stockpiles of contaminated soil must be stored in a secure area and be covered if remaining more than 24 hours.

Reason

To ensure that stockpiles of soil or other materials are appropriately managed.

(51) 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.

Reason

To ensure loads are managed appropriately and do not impact local amenity.

(52) EROSION AND SEDIMENT CONTROL

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.

Reason

To ensure no substance other than rainwater enters the stormwater system and waterways.

(53) 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.*

Reason

To ensure hazardous/ industrial waste is managed appropriately.

(54) 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.

Reason

To ensure sediment is not tracked onto the roadway.

(55) 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.

Reason

To ensure that the archaeology of the site is appropriately managed and protected.

(56) USE OF HERITAGE CONSULTANT

- (a) A heritage consultant experienced in heritage restoration and renovation works is to be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The heritage consultant is to be involved in the resolution of all matters where existing significant fabric and spaces are to be subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage consultant is to be provided with full access to the site and authorised by the applicant to respond directly to Council where information or clarification is required regarding the resolution of heritage issues throughout the project. Evidence and details of the above commission on the above terms are to be submitted to Council's Area Coordinator or Area Planning Manager prior to commencement of work on site.
- (b) The heritage consultant must sign off the completed project and submit a final report to Council's Area Coordinator or Area Planning Manager specifying how the heritage conditions are satisfied prior to the issue of

any Occupation Certificate or the commencement of the use, whichever is earlier.

Reason

To ensure that the implementation of the approved development is carried out in a manner that does not have adverse heritage impacts.

(57) STREET TREE PROTECTION

All street trees located 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 (including demolition). The protection must be installed and certified by a qualified Arborist (AQR Level 3) and must include:
 - (i) An adequate clearance, minimum 250mm, must be provided between the structure and tree branches, and trucks at all times.
 - (ii) Tree trunk/s and/or major branches must be protected by wrapped thick underlay carpet or similar padding material to limit damage, and
 - (iii) Timber planks (50mm x 100mm or similar) must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals and must be fixed against the trunk with tie wire, or strapping. The thick underlay carpet or similar padding material and timber planks must not be fixed to the tree in any instance, or in any fashion.
 - (iv) Tree trunk and major branch protection is to remain in place for the duration of construction and development works and must be removed at the completion of the project.
- (b) Temporary signs, or any other items, shall not be fixed or attached to any street tree.
- (c) 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 pits. Supporting columns must not be placed on any tree roots that are exposed.
- (d) Young street trees must be protected by installing three (3) wooden stakes around the edge of the tree pits or a minimum of 1 metre from the base of the trunk. Hessian must be wrapped around the stakes. If existing stakes or a metal tree guard are already in place, these suffice as tree protection.
- (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 any area known to or suspected of having tree roots greater than 30mm diameter must be undertaken by hand.
- (g) Any trenching works for services, hydraulics, drainage etc. must not be undertaken within proximity to the trunk of any street tree. Alternate installation methods for services such as directional boring/drilling or redirection of services must be employed where roots greater than 30mm diameter are encountered during 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 the erection of any 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 any construction activities may result in prosecution under the *Local Government Act, 1993* and the *Environmental Planning and Assessment Act, 1979*.

Reason

To ensure the protection and ongoing health of the street trees.

(58) 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 application under Section 68 of the *Local Government Act, 1993* and Sections 138/139 of the *Roads Act, 1993* must be submitted to and approved by Council.

Reason

To protect the amenity of the public domain.

(59) NO OBSTRUCTION OF PUBLIC WAY

Unless otherwise approved by Council, the public way must not be obstructed by any materials, vehicles, waste receptacles, skip-bins or the like. Non-compliance with this requirement may result in the issue of a notice by Council to stop all work on the site.

Reason

To protect the amenity of the public domain.

(60) 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 separate application being submitted to and approved by Council under Section 68 of the *Local Government Act, 1993* and Sections 138/139 of the *Roads Act, 1993*.

Reason

To ensure mobile cranes are used appropriately.

(61) WASTE AND RECYCLING MANAGEMENT – DEMOLITION AND CONSTRUCTION WASTE

- (a) 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.
- (b) Demolition waste must be contained and stored within the boundaries of the development.
- (c) Waste dockets are to be retained to confirm and verify which facility received the material for recycling or disposal.

- (d) Waste dockets are to be retained to confirm and verify that at least eighty percent (80%) of demolition material diverted from landfill for re-use and recycling.

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

(62) WASTE AND RECYCLING COLLECTION CONTRACT

Prior to any Occupation Certificate being issued, the building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. Waste is to be stored and collected from within the curtilage of the site at all times.

Reason

To ensure that waste and recycling is appropriately managed.

PART F – OCCUPATION AND ONGOING USE

(63) 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.

Reason

To ensure the site is authorised for occupation.

(64) ANNUAL FIRE SAFETY STATEMENT FORM

An annual Fire Safety Statement must be given to Council and Rescue NSW 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.

Reason

To ensure annual checks on fire safety measures.

(65) 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*.
- (c) Uses that produce airborne particulate matter must incorporate an effective dust collection system.

Reason

To protect the amenity of the surrounding area.

(66) HOURS OF OPERATION

The hours of operation are restricted to between 8.00am and 10.00pm, Monday to Sunday.

Reason

To ensure the premises operates within the approved hours of operation.

(67) NOISE – COMMERCIAL PLANT / INDUSTRIAL DEVELOPMENT

- (a) Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA [Noise Policy for Industry 2017 \(NPfI\)](#) unless agreed to by the City's Area Planning Manager. Further:
- (i) Background noise monitoring must be carried out in accordance with the long-term methodology in [Fact Sheet B](#) of the NPfI unless otherwise agreed by the City's Area Planning Manager.
 - (ii) Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.
- (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 must 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.

Reason

To protect the acoustic amenity of surrounding properties.

(68) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the approved development shall encroach onto the adjoining properties.

Reason

To protect neighbouring properties.

(69) ENCROACHMENTS – PUBLIC WAY

No portion of the approved development, including gates and doors during opening and closing operations, but excluding the existing awning, shall encroach upon Council's footpath area.

Reason

To protect the public way.

(70) UNDER AWNING LIGHTING

Any under awning lighting must be fitted with LED lighting technology (or other technology with an improved lighting power density – watts per square metre). Batten type fluorescent lighting is not approved. Illumination from the under awning lighting, when measured from any place in the public domain, must be designed and certified to comply with the following:

- (a) the maximum horizontal luminance level must not exceed 200 lux including light spill from shop windows. Lux level may be increased to 220 lux in some areas in Central Sydney CBD;
- (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 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.

Reason

To ensure the provision of an appropriate level of illumination and to protect the amenity of the public domain.

(71) AWNING MAINTENANCE

The awning must be inspected and regular maintenance be carried out to ensure the awning's structural integrity, aesthetic and functional qualities are maintained.

Reason

To ensure that awnings are appropriately maintained.

(72) WASTE/RECYCLING COLLECTION - COMMERCIAL

- (a) Waste storage and 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) Commercial service arrangements for waste and recycling collection must be conducted in accordance with the City's Waste Local Approvals Policy.

Reason

To ensure that waste and recycling is appropriately managed.

SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation, 2000* apply to the development.

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>.

IMPORTANT ADDITIONAL INFORMATION

Advisory notes:

1. It is advised that the City of Sydney Neighbourhood Parking Policy may apply to this development. Eligibility for parking permits for residents or users of the development will be determined by the terms of this policy or subsequent future policies.

The Environmental Planning and Assessment Act 1979 requires you to:

1. Obtain a **Construction Certificate** prior to the commencement of any works. An application may be lodged with Council, or you may apply to a private accredited certifier for a Construction Certificate. An accredited certifier **must obtain Council's approval** to certain conditions of this development consent, where indicated before issuing the Construction Certificate.

1. ***It is compulsory to lodge digital copies of applications, including plans and documentation if lodging an application with Council. Please refer to Council's website for any further information about digital requirements and electronic files.***

Note: All applications must be lodged via the NSW Planning Portal.

2. Nominate a **Principal Certifier** which may be either Council or a registered certifier and notify Council of that appointment. You **cannot lawfully** commence works without complying with this requirement. Appointment must be made through the Planning Portal <https://www.planningportal.nsw.gov.au/>.
3. Give Council at least two days notice of your intention to commence the erection of a building **before** commencing construction works. You cannot lawfully commence works without complying with this requirement.
4. Obtain an **Occupation Certificate** before commencing occupation or commencing to use the building or on the completion of other works including the erection of a sign. You cannot lawfully commence occupation or the use of a building without complying with this requirement.

You may also need to:

5. Obtain approval through the lodgement of an application under Section 68 of the *Local Government Act 1993* and Section 138 of the *Roads Act 1993* for an activity which is proposed to be undertaken in, on or above a road reservation (including footways). Such activities include:
 - (a) building elements/façade features;
 - (b) installation of hoardings/scaffolding;
 - (c) installation and/or alterations to advertising/business signs and street awnings;
 - (d) crane operation and other hoisting activities;
 - (e) temporary works (e.g.: barricading, road openings, mobile hoisting devices);
 - (f) works zone (for loading and unloading from the roadway); and
 - (g) temporary ground anchoring and shoring to support a roadway when excavating.

Application forms are available on the City's website.

6. Lodge an **Application for Subdivision** to obtain a **Subdivision Certificate** if a land (including stratum) subdivision is proposed and an Application for Subdivision to obtain **Strata Title Subdivision** under the relevant Strata Titles Act if strata title of the development is proposed.
7. Comply with the Food Act 2003, the Australia New Zealand Food Standards Code, Australian Standard 4674 – 2004, and register the business with Council if the premises is used for the manufacture, preparation, packing, storing, conveying or delivering of food or beverage for sale.
8. Contact Sydney Water regarding the water and sewerage services to this development. For further information go to www.sydneywater.com.au.
9. Carry out critical stage inspections in accordance with Section 6.5 of the EP&A Act 1979 and clauses 61, 63 and 65 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation.

Attachment B

Selected Drawings

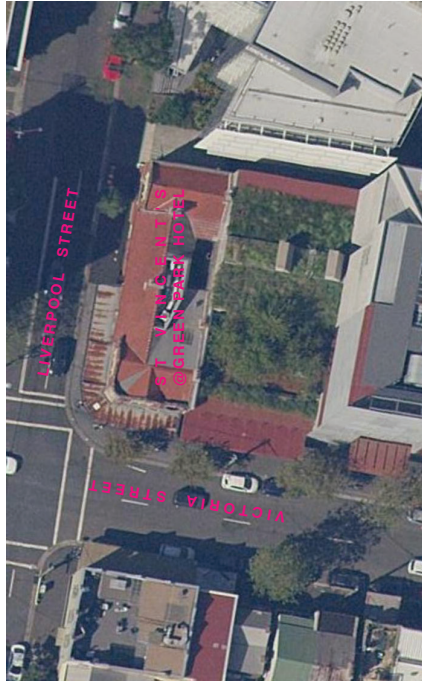
ST VINCENT'S @ GREEN PARK HOTEL

360 Victoria Street, Darlinghurst, N.S.W - 2010

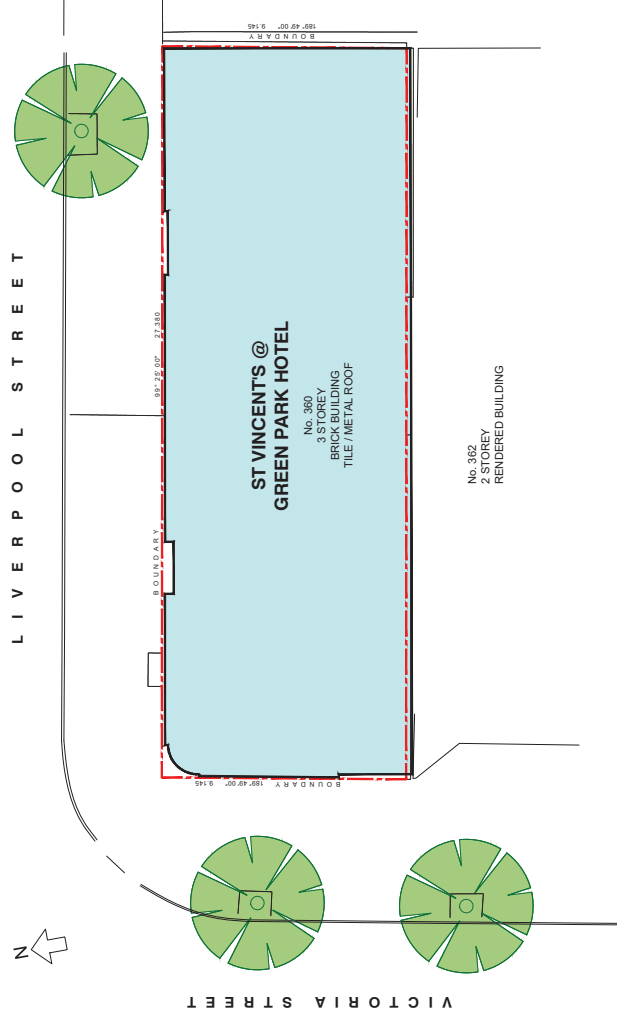
For:



Location Plan (NTS):



Site Plan(NTS):



A r c h i t e c t u r a l D r a w i n g L i s t

DWG NO.	DRAWING TITLE	SCALE	SIZE
2103DA00	COVER PAGE, DRAWING LIST & SITE PLAN	N.T.S	A1
2103DA01	DEMOLITION PLANS	1:100	A1
2103DA02	PROPOSED FLOOR PLANS	1:100	A1
2103DA03	REFLECTED CEILING PLANS	1:100	A1
2103DA04	ELEVATIONS & SECTION	1:100	A1

10 AUGUST 2022
DEVELOPMENT APPLICATION RE-ISSUE

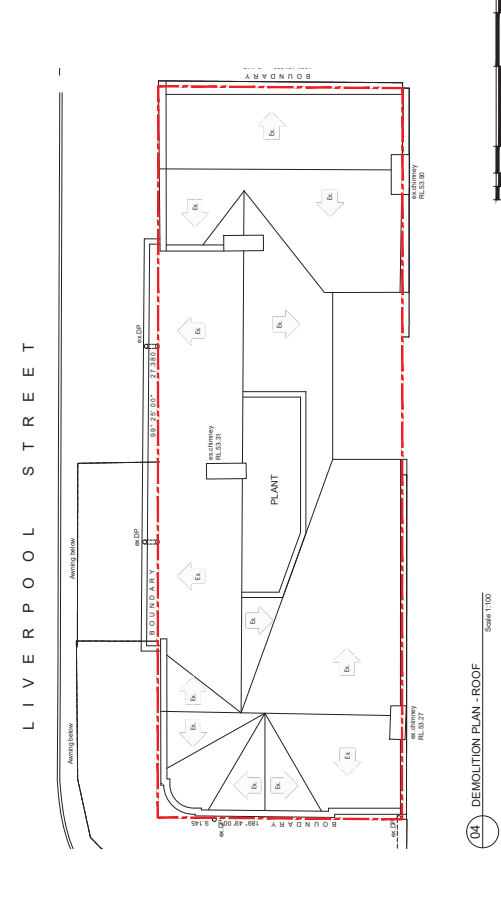
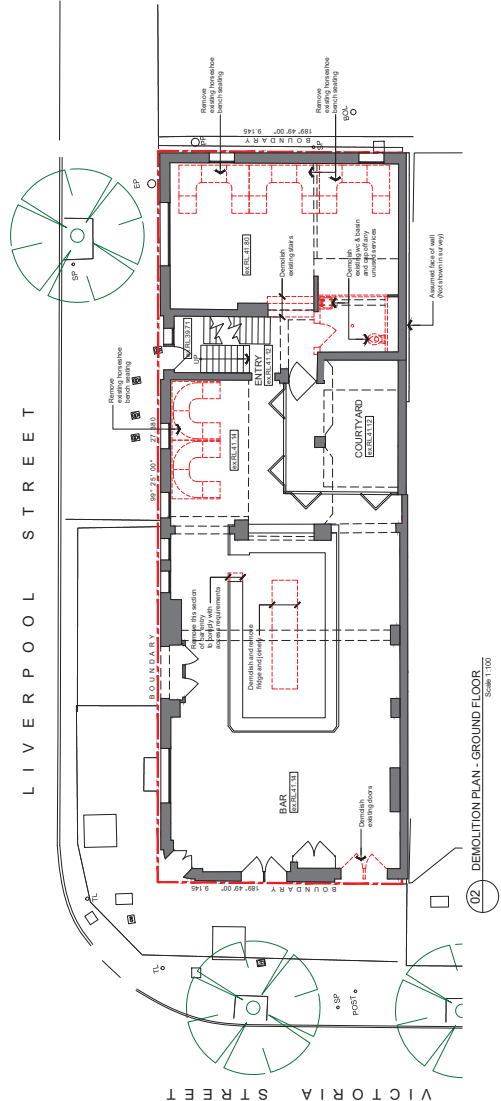
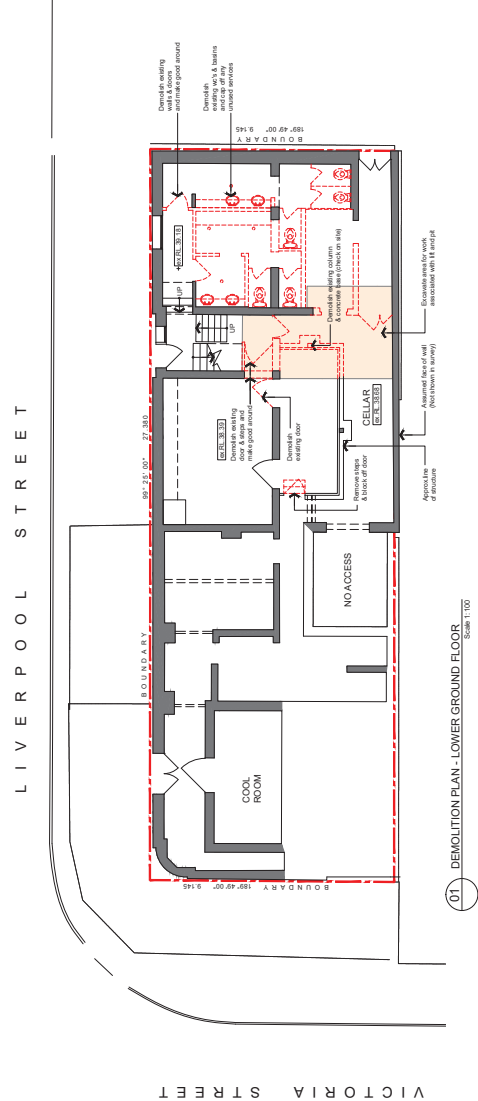


boffa robertson group

Architecture, Health Planning
Suite 7 EPICA, 9 Railway Street,
CHATSWOOD, NSW, 2067
Tel.: (02) 9406 7000.

© The Council, Permit holder or other person who has been granted a permit under the Act shall be liable to pay the costs of the demolition of the building or structure.

LEGEND	
	BOUNDARY
	OUTLINE OF WALL ABOVE / BELOW
	EXISTING WALL TO REMAIN
	EXISTING LEVELS
	EXISTING WALLS, DOORS, WINDOWS, SERVICES TO BE REMOVED
NOTES	
1. Contact off existing services and make safe.	
2. Make good all surfaces in preparation of new layout.	
3. Design to comply with accessibility requirements.	



ST VINCENTS @ GREEN PARK HOTEL
300 Victoria Street, Daringhurst

DEMOLITION PLANS

Proceed Group
Project Management, Quantity & Surveying

boffa robertson group
ARCHITECTS, INTERIORS, EXTERIORS, PLANNING, ENVIRONMENTAL DESIGN

job
Site: 7, Level: 1, Epos: 1/16/2022
Author: JRM
Date: 1/16/2022
Project No: 20000000000000000000
Drawing No: 20000000000000000000
Date: 20/01/2022

ST VINCENTS @ GREEN PARK HOTEL
300 Victoria Street, Daringhurst

DEMOLITION PLANS

Proceed Group
Project Management, Quantity & Surveying

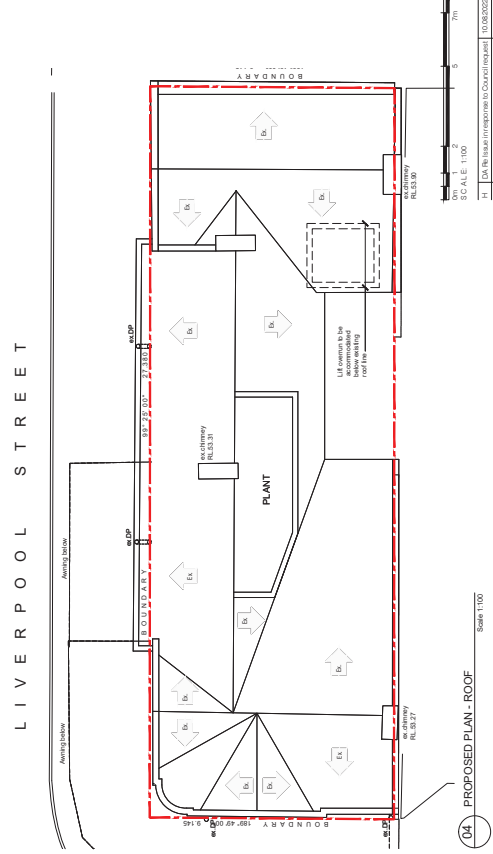
boffa robertson group
ARCHITECTS, INTERIORS, EXTERIORS, PLANNING, ENVIRONMENTAL DESIGN

job
Site: 7, Level: 1, Epos: 1/16/2022
Author: JRM
Date: 1/16/2022
Project No: 20000000000000000000
Drawing No: 20000000000000000000
Date: 20/01/2022

LEGEND	
	BOUNDARY
	OUTLINE OF WALL ABOVE / BELOW
	EXISTING WALL TO REMAIN
	STUD WALL
	EXISTING LEVELS
	PROPOSED LEVELS
	EXISTING DOOR TO REMAIN
	PROPOSED DOOR
	PROPOSED WINDOW
	ACOUSTIC PANELING TO WALL
	PRIVACY SCREEN
	REFRESHED WORKS - NEW FINISHES TO FUTURE DETAIL
	NEW LIFT

- NOTES**
- All areas to be painted.
 - Acoustic paneling to be installed in all rooms.
 - Mechanical services to be concealed / uprated to suit new layout.
 - Lighting and ceiling fixtures to be adjusted to suit new layout.

* Note: Roof & Awning works subject to separate DA



Scale 1:100

No.	REVISION	DATE
1	Issue for Approval	13.04.2022
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100	Issue for Approval	13.04.2022

Scale 1:100

PROPOSED FLOOR PLANS

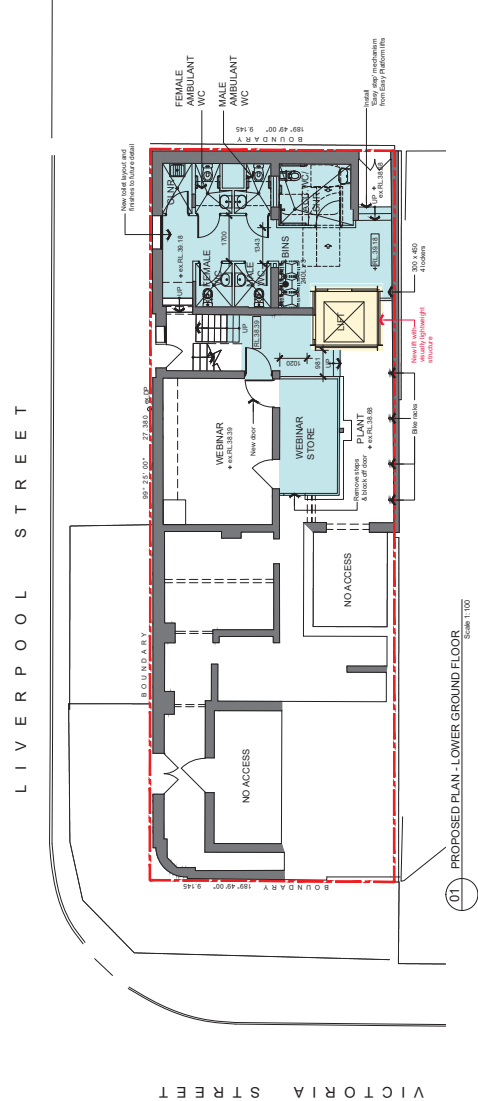
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300 Victoria Street, Darlinghurst

ST VINCENTS HEALTH AUSTRALIA

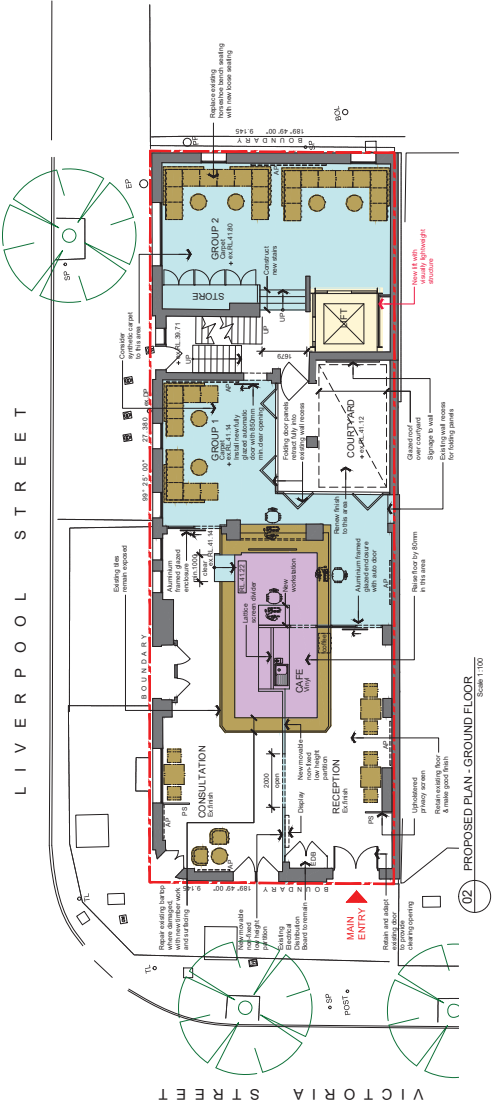
CONSTRUCTION CONSULTANTS

boffa robertson group
CONSULTANTS

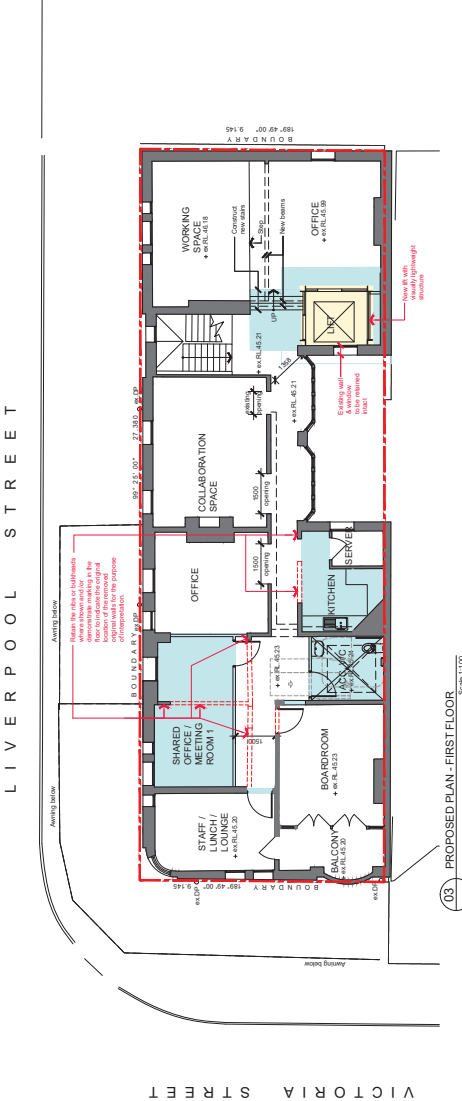
Job
Project No. 2103 / DA02
Date: 13/04/2022



01 PROPOSED PLAN - LOWER GROUND FLOOR Scale 1:100



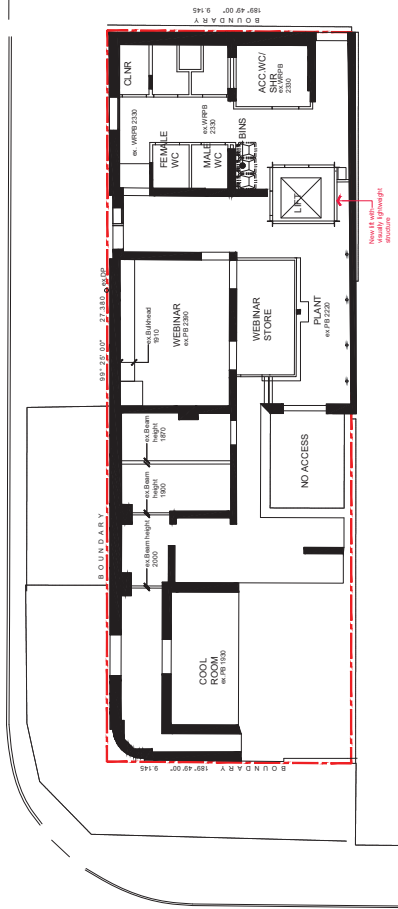
02 PROPOSED PLAN - GROUND FLOOR Scale 1:100



03 PROPOSED PLAN - FIRST FLOOR Scale 1:100

LIVERPOOL STREET

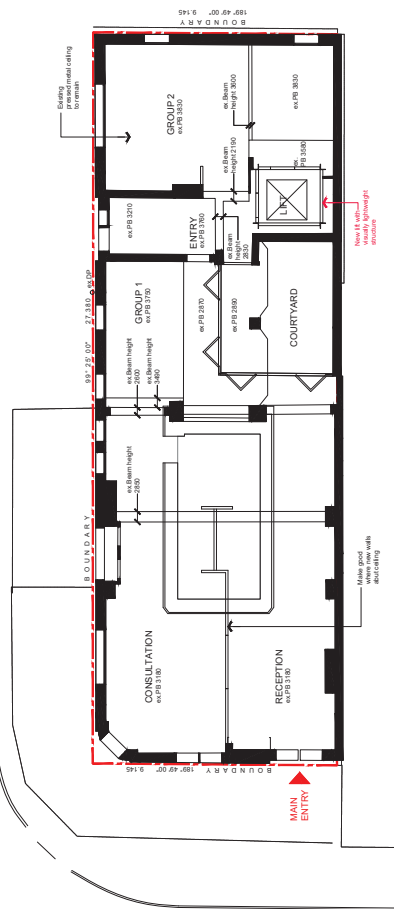
VICTORIA STREET



01 REFLECTED CEILING PLAN - LOWER GROUND FLOOR Scale 1:100

LIVERPOOL STREET

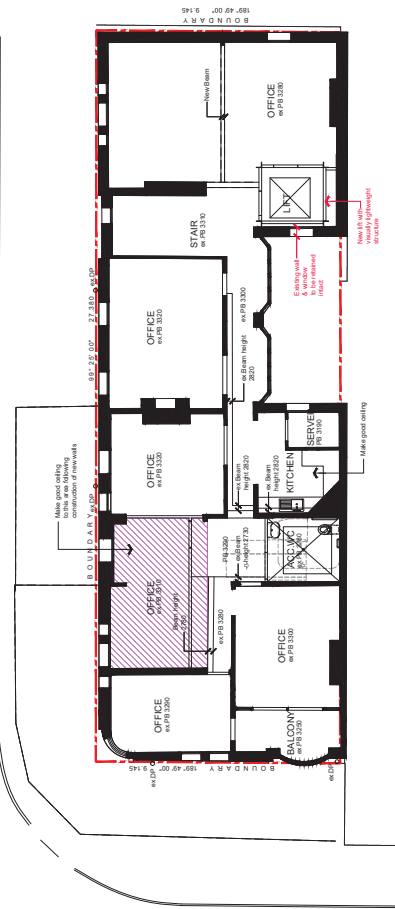
VICTORIA STREET



02 REFLECTED CEILING PLAN - GROUND FLOOR Scale 1:100

LIVERPOOL STREET

VICTORIA STREET



03 REFLECTED CEILING PLAN - FIRST FLOOR Scale 1:100



SCALE	1:100
DATE	10/08/2022
PROJECT	ST VINCENTS @ GREEN PARK HOTEL
CLIENT	ST VINCENTS HEALTH AUSTRALIA
PROJECT NO.	30002021
NO.	Amendment
DATE	

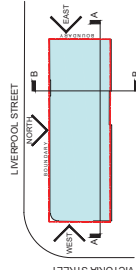
PROJECT
ST VINCENTS @ GREEN PARK HOTEL
300 Victoria Street, Darlinghurst

DRAWING
REFLECTED CEILING PLANS



boffa robertson group
ARCHITECTS
Suite 7, Level 1, Egan, 7 Egan Street
AUSTRAALIA 1506 2007
P.O. Box 975, 2007 Sydney NSW
P.O. Box 975, 2007 Sydney NSW
Tel: 02 9550 9999
Fax: 02 9550 9999
Email: info@boffa.com.au

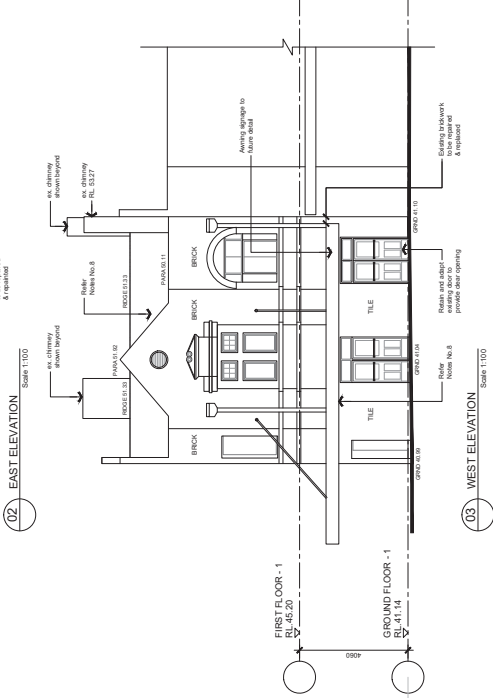
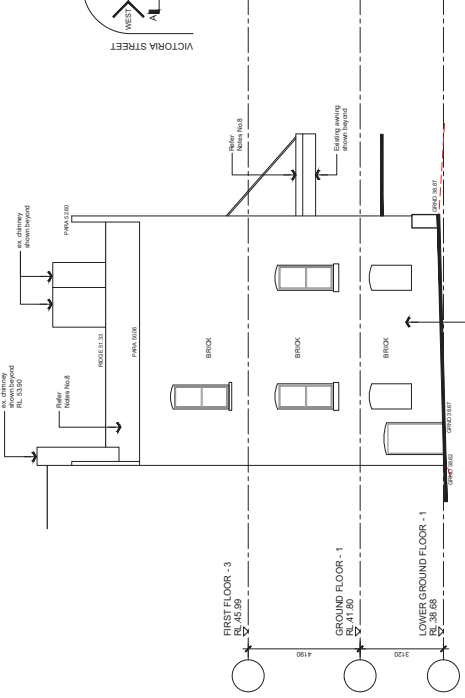
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SCALE	1:100 (A1)	NO.	2103 / DA03
DRAWN BY		CHECKED BY	
APPROVED BY		DATE	



LEGEND

---	LINE OF DEMOLITION
---	EXISTING WALL TO REMAIN
---	PROPOSED WALL
---	UNDERSIDE OF BEAM
---	UC
---	REFRESHED CEILINGS
---	REFRESHED WORKS
---	NEW WORKS

- NOTES**
1. Referencing in relation to this plan and notes.
 2. Refer to the notes for further details.
 3. Clear all debris and vegetation not from boundary.
 4. Remove existing ground surface and regrade to new level.
 5. Repoint minor ground cracking to adjacent openings.
 6. Repoint and replace all roof bricks, work, paint and gutters.
 7. Strip and re-point rendered down & windows.
 8. Roof & Airing works subject to separate DA.



PROJEC

NO.	DATE	DESCRIPTION
1.	20/01/2024	ISSUE FOR PERMIT
2.	20/01/2024	ISSUE FOR PERMIT
3.	20/01/2024	ISSUE FOR PERMIT
4.	20/01/2024	ISSUE FOR PERMIT
5.	20/01/2024	ISSUE FOR PERMIT
6.	20/01/2024	ISSUE FOR PERMIT
7.	20/01/2024	ISSUE FOR PERMIT
8.	20/01/2024	ISSUE FOR PERMIT
9.	20/01/2024	ISSUE FOR PERMIT
10.	20/01/2024	ISSUE FOR PERMIT

ST VINCENTS @ GREEN PARK HOTEL
300 Victoria Street, Darlinghurst

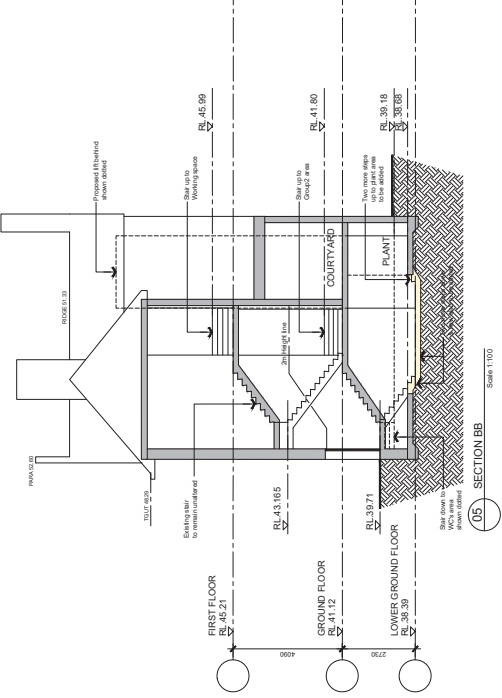
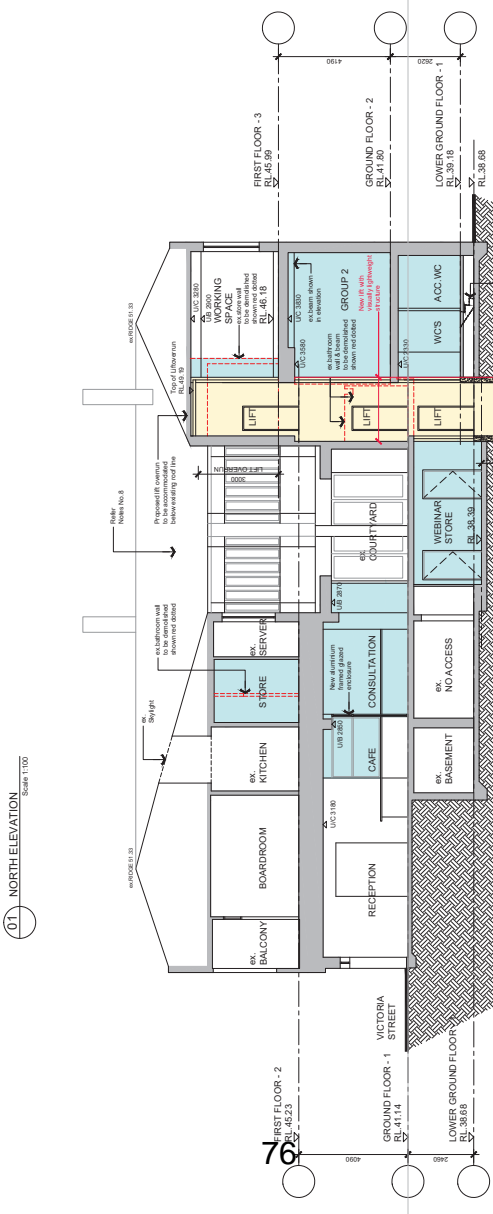
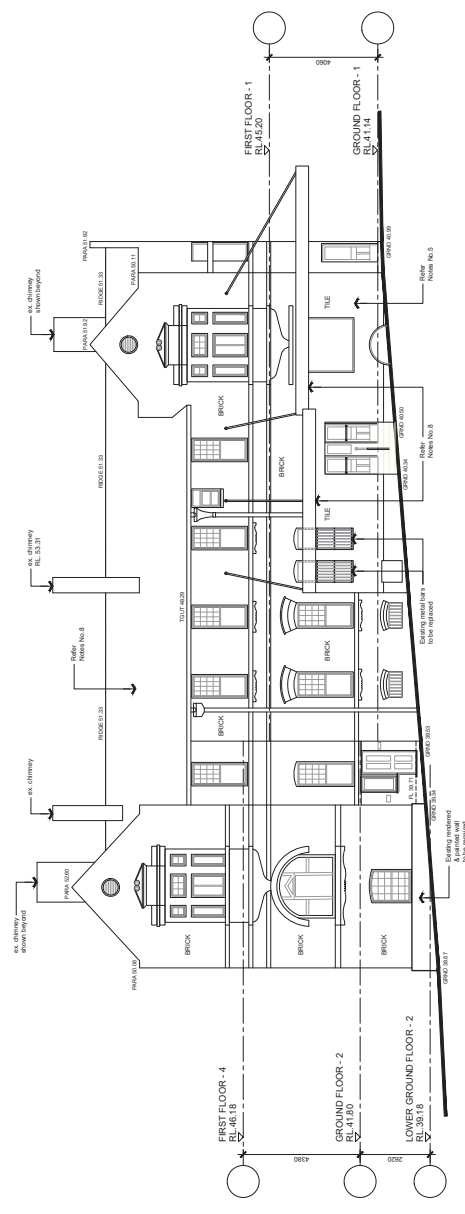
ST VINCENTS @ GREEN PARK HOTEL
300 Victoria Street, Darlinghurst

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CONSULTANTS

boffa robertson group
CONSULTANTS

boffa robertson group
CONSULTANTS

boffa robertson group
CONSULTANTS



Item 5.**Development Application: 657-657A Botany Road, Beaconsfield - D/2021/1335****File No.:** D/2021/1335**Summary****Date of Submission:** 16 November 2021, amended plans submitted 15 August 2022.**Applicant:** Mr Billy Rumoong**Architect/Designer:** Hely Horne Perry Architects Pty Ltd**Owner:** Pico Alfa Pty Ltd**Cost of Works:** \$720,000**Zoning:** The site is located in Part SP2 and part B4 Mixed Use zone. The proposal is defined as a commercial retail premises and is prohibited within the SP2 zone however permissible within the B4 Mixed Use zone.**Proposal Summary:** Approval is sought for the demolition of existing structures, lot consolidation, minor excavation and construction of a two (2) storey commercial building for one retail tenancy. The development includes a loading dock at the rear on Emanuel Lane.

The site is located within Green Square.

The application is referred to the Local Planning Panel for determination as the proposal includes a voluntary planning agreement.

The application is accompanied by a public benefit offer for the provision of community infrastructure as required under the Sydney LEP 2012. The offer includes dedication and embellishment of approximately 12.8sqm being 1.4m by 9.14m for a footpath along Botany Road frontage within the B4 Mixed Use zone and monetary contribution for community infrastructure in the Green Square urban renewal area. The planning agreement (VPA/2021/15) was exhibited for 28 days between 8 September and 6 October 2022. At the time of writing the report no submissions had been received.

A deferred commencement condition is recommended to require the planning agreement to be executed prior to the consent becoming operative.

The application was referred to TfNSW for comments to ensure the proposal did not impact on the future widening of Botany Road within the SP2 zoned land. General conditions of consent were identified and form part of the recommended condition of consent in Attachment A.

The application has been amended to address several issues identified by Council during assessment in particular:

- Facade design;
- Colours and materials;
- Poorly integrated signage;
- Finished floor levels and non-compliance with minimum flood planning levels; and
- Lack of information on historical uses on the site and whether this has resulted in soil contamination.

Whilst the site is not heritage listed, nor is it within a heritage conservation area, the existing Victoria Terrace is over 50 years old and has been assessed by the City's heritage specialist for significance.

To address the development history of the site, conditions proposed by the City's heritage specialist are recommended to require the photographic documentation of the existing building, and a written record of the site's development history. A condition is also recommended to require the salvaging and recycling of traditional building materials, to support the conservation and repair of similar buildings located within heritage conservation areas.

Following the application being amended in July 2022, further information was requested requiring a Plan of Subdivision and current land titles to be provided to assist of lot consolidation.

The application was notified for 14 days between 30 November 2021 and 15 December 2021. As a result, four (4) submissions were received, which raised the following concerns:

- Privacy impacts to residential dwellings at rear.
- Overshadowing
- Bulk and scale.

All concerns raised in the submissions are addressed within the report.

Overall, the proposal responds satisfactorily to surrounding developments and the desired future character of Botany Road.

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

Development Controls:

- (i) State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land
- (ii) State Environmental Planning Policy (Industry and Employment) 2021
- (iii) State Environmental Planning Policy (Transport and Infrastructure) 2021
- (iv) Sydney Local Environmental Plan 2012
- (v) Sydney Development Control Plan 2012

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Public Benefit Offer
- D. Draft Voluntary Planning Agreement

Recommendation

It is resolved that pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application No. D/2021/1335 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for deferred commencement approval for the following reasons:

- (A) The proposal complies with the relevant controls of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.
- (B) The proposal represents appropriate development for the site and is in line with transition of the Botany Road corridor.
- (C) Subject to conditions, the proposal satisfies design excellence provisions.
- (D) A public benefit offer has been made and satisfies 6.14 of the Sydney LEP relating to the provision of community infrastructure within Green Square. This is subject to deferred commencement to execute the associated Voluntary Planning Agreement.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 2, Section 1 in DP 2269 and Lot 3, Section 1 in DP 2269, known as 657-657A Botany Road, Rosebery. It is rectangular in shape with an area of approximately 292sqm.
2. It has a primary street frontage of 9m to Botany Road and a secondary street frontage of 9m to Emanuel Lane. The site is located close to the intersection of Botany Road and Cressy Street and Cressy Street and Emanuel Lane. The site falls from Botany Road towards the rear of the site. The site is also identified as being subject to flooding.
3. The site contains two (2) commercial buildings fronting Botany Road. This includes a two-storey terrace building and a single storey building with existing car parking within the front setback. The terrace building has an inconsistent front setback compared to neighbouring buildings and its front portion is located within SP2 zoned land.
4. The surrounding area is characterised by a mixture of land uses, primarily being commercial, along Botany Road and residential along the eastern side of Emanuel Lane. Surrounding building typologies vary, with single and two storey commercial buildings along Botany Road and single and two storey residential dwellings along the eastern side of Emanuel Lane. As discussed above, most buildings have a significant setback to Botany Road due to land being zoned SP2 Classified to allow for future road widening. Refer to Figure 4 below.
5. The site is located within the Green Square area and also within the Beaconsfield locality and is identified as being subject to flooding.
6. A site visit was carried out on 16 February 2022. Photos of the site and surrounds are provided below: Photos of the site and surrounds are provided below:
7. Photos of the site and surrounds are provided below:

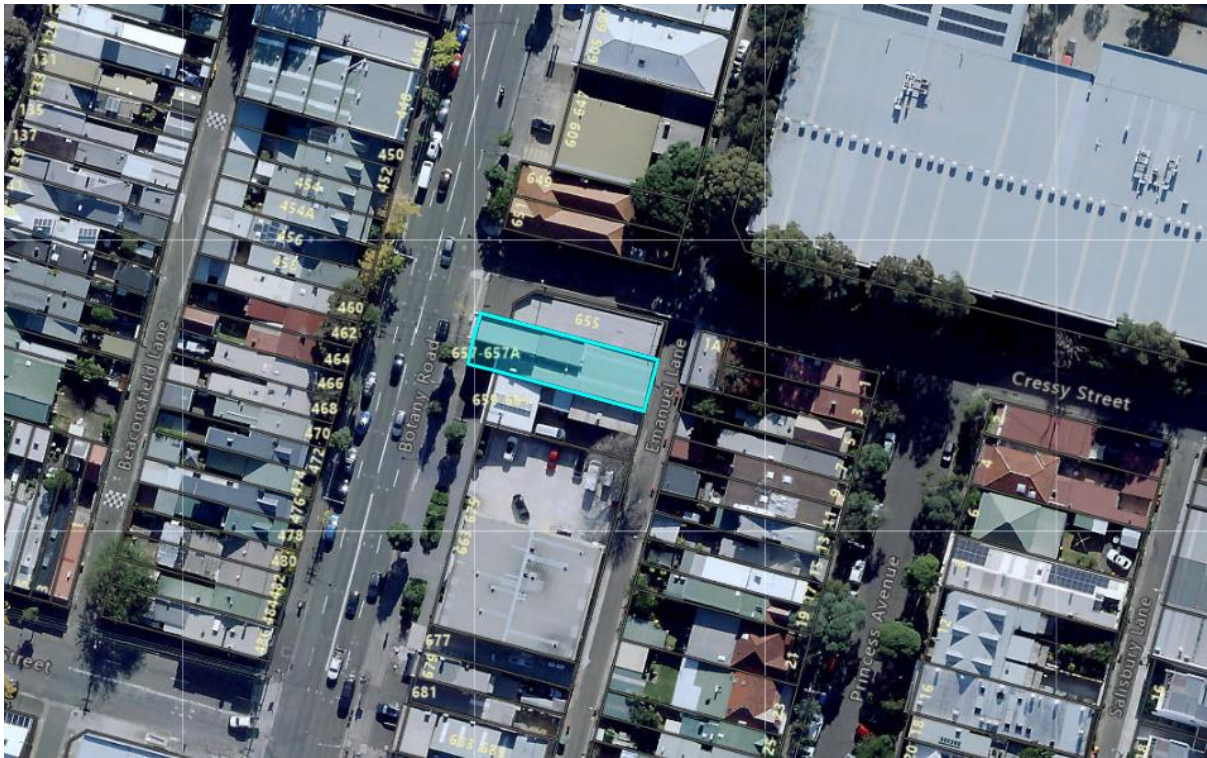


Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Botany Road



8. Figure 3:

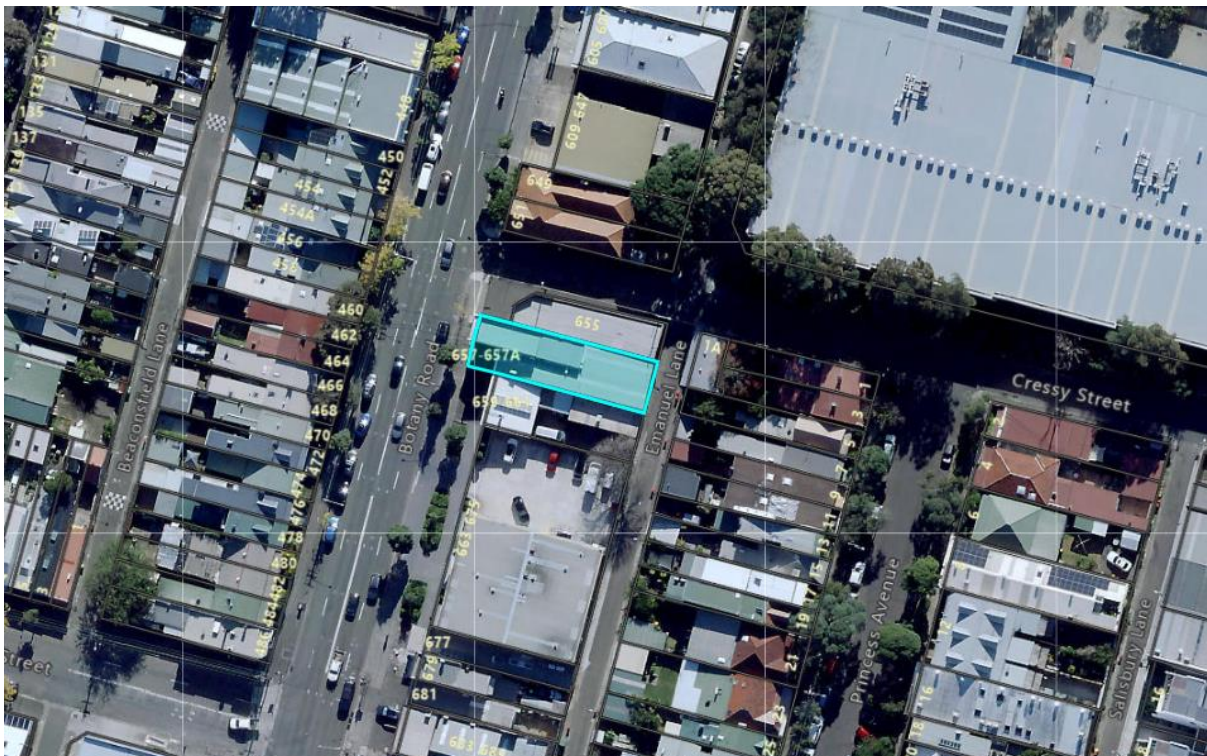


Figure 4: Aerial view of site and surrounds



Figure 5: Site viewed from Botany Road



Figure 6: Photo showing the existing northern elevation of the existing terrace building, as seen from Cressy Street. The existing terrace building retains the original setback along Botany Road.

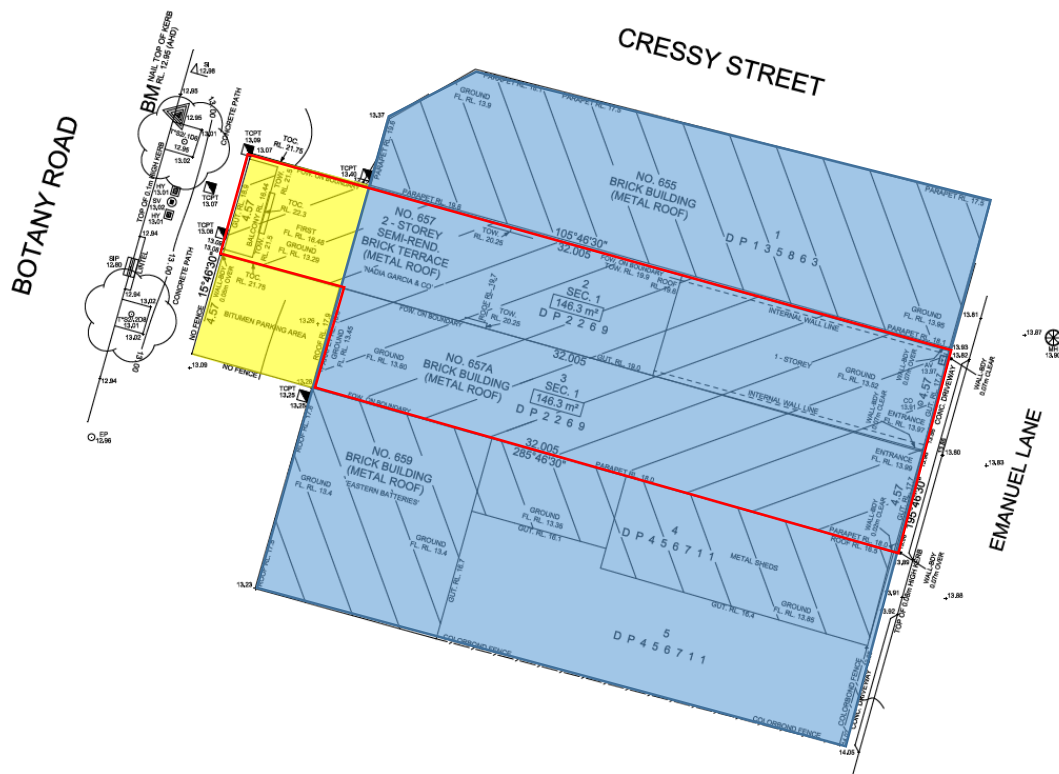


Figure 4: Survey plan demonstrating existing structures on the site within SP2 zoned land (yellow) along Botany Road and the location of B4 Mixed Use zoned land (blue).

History Relevant to the Development Application

Development Applications

9. The following applications are relevant to the current proposal and detail applications on the subject site:
 - **D/2021/793** – The Development Application was withdrawn on 9 August 2021 for the demolition of all structures on site and construction of a two storey commercial building. The proposal sought to build upon SP2 zoned land and did not include a public domain setback. After discussions with the applicant, it was agreed that the application be withdrawn and a revised design be explored.
 - **D/2010/728** - A Development Application was granted on 13 July 2010 to change the use of the first floor tenancy as an Oriental Healing Centre.

Amendments

10. Following a preliminary assessment of the proposed development by Council Officers, a request for amendments was sent to the applicant on 24 March 2022 and included the following:

Design:

- Increased level of glazing on the ground floor on the Botany Road facade was recommended to improve activation of the street and passive surveillance.
- Provide a continuous permanent awning along the Botany Road frontage to allow for improved weather protection for pedestrians and assist in articulating the facade and breaking up its proportions.
- Explore improved facade designs on Botany Road including use of high quality materials such as brick, incorporate public art, and improved parapet.
- Improvements to the proposed signage including better integration with the design of the development and colour schemes.

Flood Levels:

- Increase proposed floor levels to comply with the minimum Flood Planning Levels as identified in the Interim Flood Risk Management Policy. Revised plans were requested to demonstrate compliance with the policy. Access ramps were recommended to be provided internally to reduce impacts on the public domain.

Contamination:

- Details of the historical land use of the site were requested to ensure no significant soil contamination was present. A Detailed Environmental Site Investigation (DESI) was requested to identify any past or present potentially contaminating activities that have occurred on the site.
11. The applicant responded to the request on 28 July 2022, and submitted the following information:
- Revised plans detailing an improved Botany Road facade including improved ground floor glazing, improved signage and use of brick and installation of an awning on the Botany Road facade.
 - Minor increase in floor levels to comply with the minimum requirements of the Interim Flood Risk Management Policy.
 - A DESI was provided demonstrating safe levels of soil contamination, permitting the proposed use of the site.
12. On 16 August 2022, the following was requested:
- A Plan of Proposed subdivision prepared by a registered surveyor.
 - Current titles of the properties.
 - Updated survey plan prepared by a registered surveyor

- Updated site plan showing the existing and proposed site boundary.
13. The information was provided on 2 September 2022.

Proposed Development

14. The application seeks consent for the following:
- Demolition of existing buildings.
 - Construction of a two (2) storey commercial building with mezzanine level consisting of a brick facade on Botany Road and masonry material on Emanuel Lane and on side elevations
 - Two illuminated signs are proposed on the Botany Road facade, including one (1) building name sign and one (1) under awning sign. Signs are proposed to display the name of the "Aquaristic Aquarium".
 - Amalgamation of existing lots and subdivision into two lots.
 - Loading and servicing access from Emanuel Lane at the rear of the site.
 - Use of building as an aquarium retail premises.
 - Trading hours of Monday 10.00am to 6.00pm, Tuesday 9.00am to 5.00pm, Wednesday 10.00am to 6.00pm, Thursday 10.00am to 7.00pm, Friday and Saturday 10.00am to 6.00pm and Sunday 11.00am to 4.00pm.
15. The use will include 4 full time staff and up to 7 casual staff, and have a maximum 10 deliveries per week.
16. The proposal is subject of a voluntary planning agreement (VPA) for the dedication of a 1.4m strip of land to Council for the use as public domain and a monetary contribution of \$4,776 towards community infrastructure. At the time of writing this report the VPA is on public notification for 28 days between 8 September 2022 to 6 October 2022.
17. Plans and elevations of the proposed development are provided below.

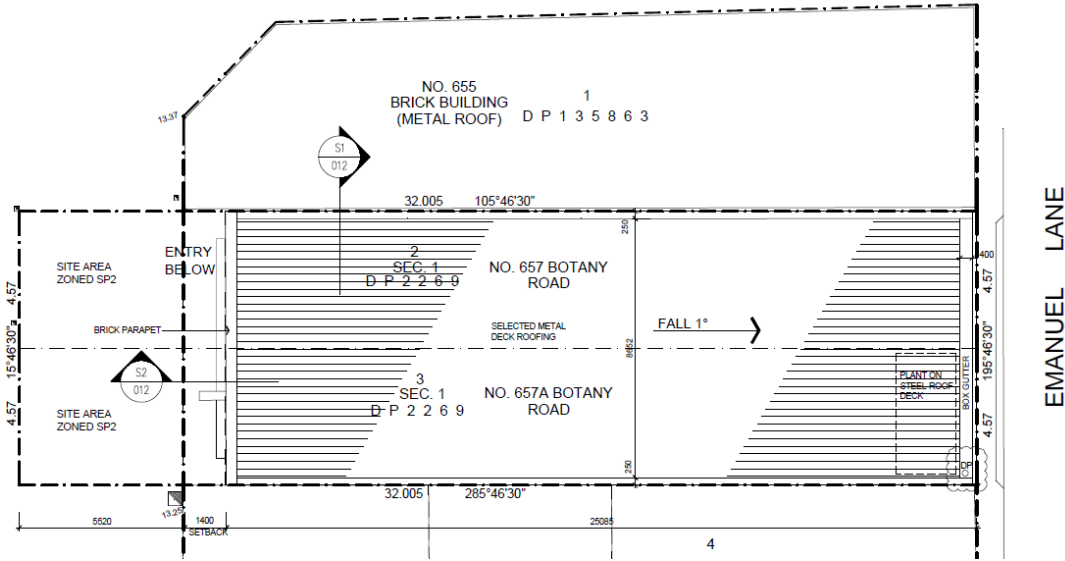


Figure 5: Proposed roof plan

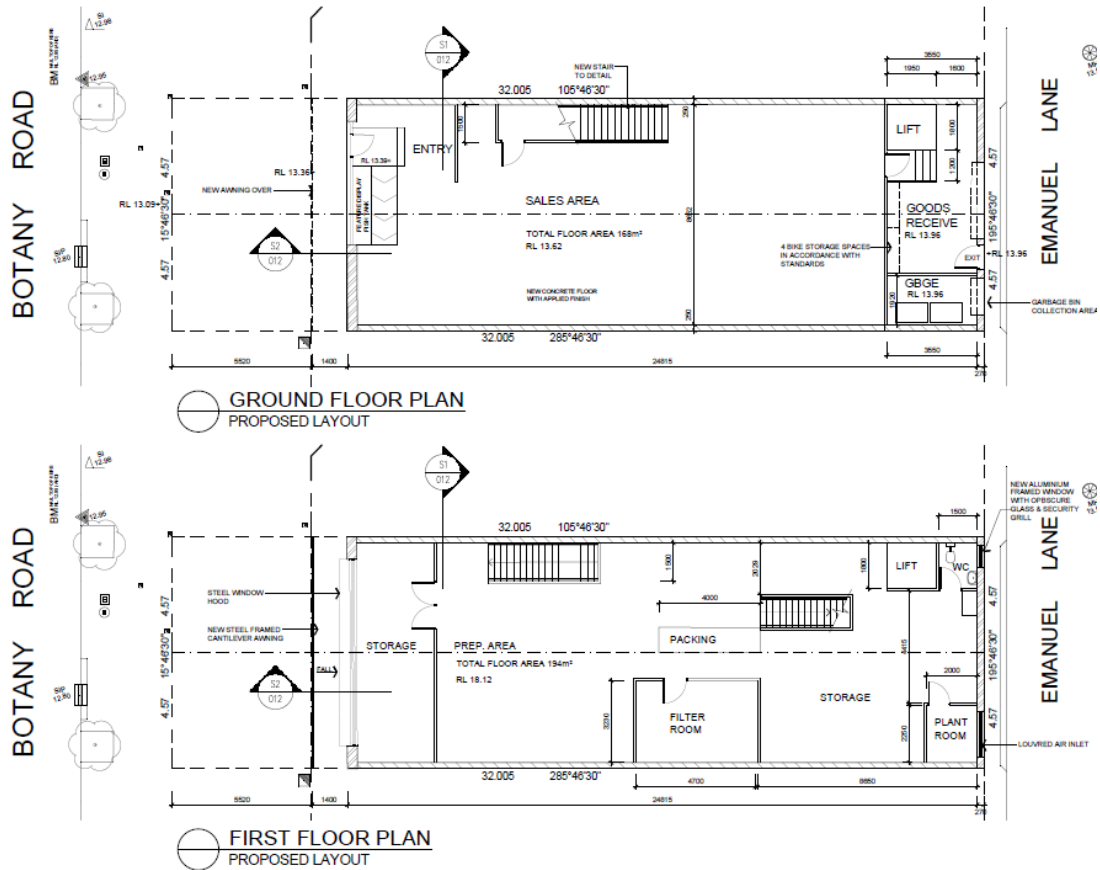


Figure 5: Proposed Ground and First Floor Plans

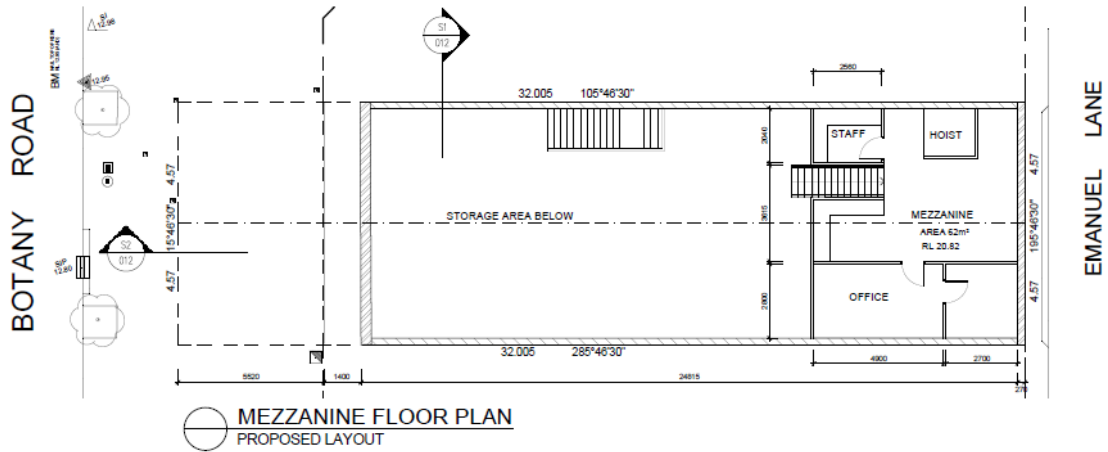


Figure 6: Proposed Mezzanine Floor Plans

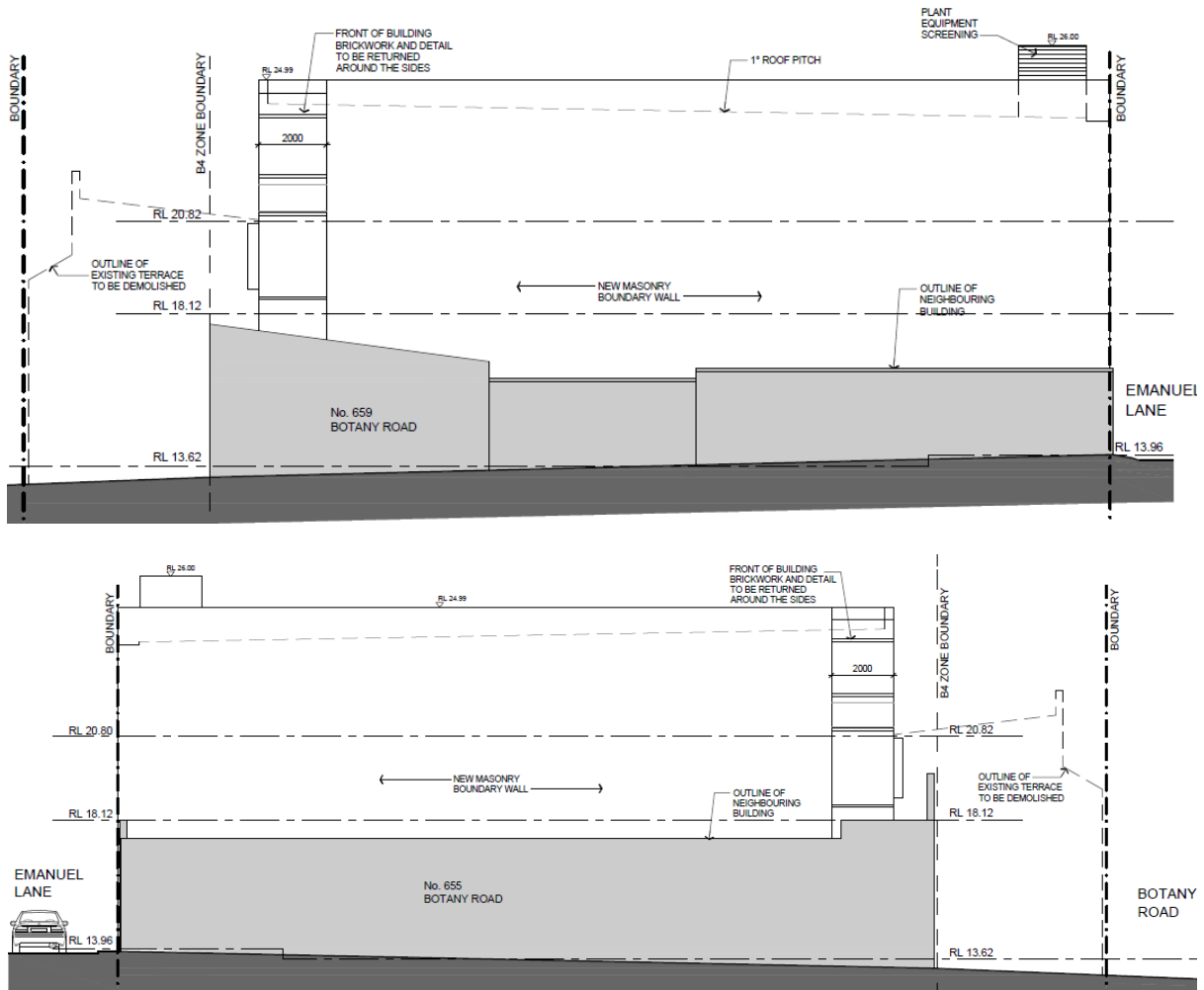


Figure 7: Proposed South (top) and North (bottom) Elevation Plans

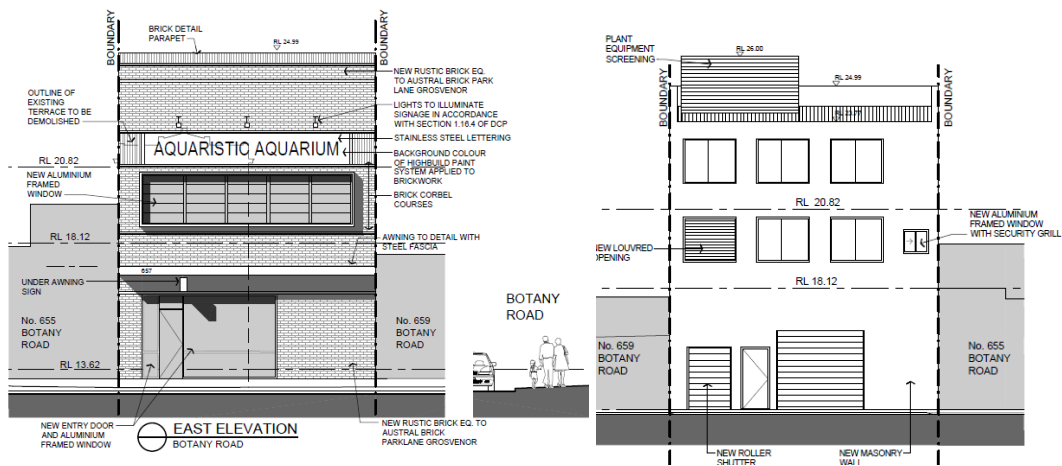


Figure 8: Proposed East (left) and West (right) elevation plans.

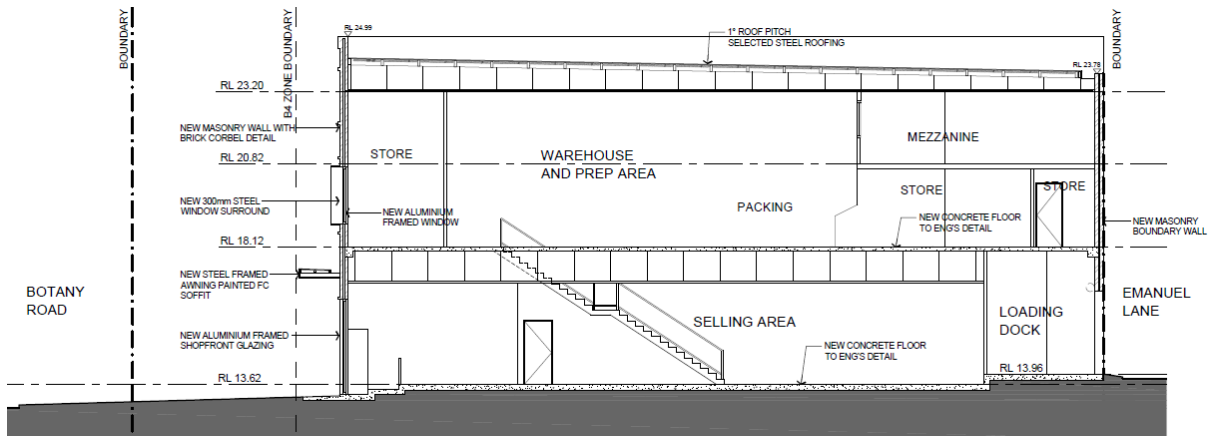


Figure 9: Proposed South Section Plan

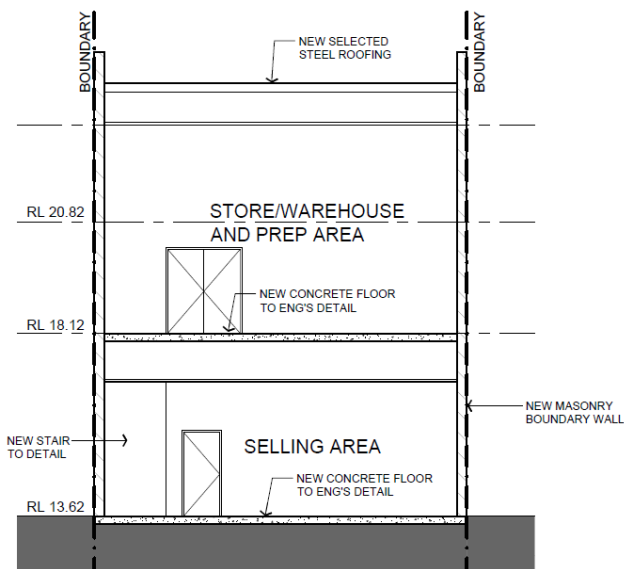


Figure 10: Proposed West Section Plan

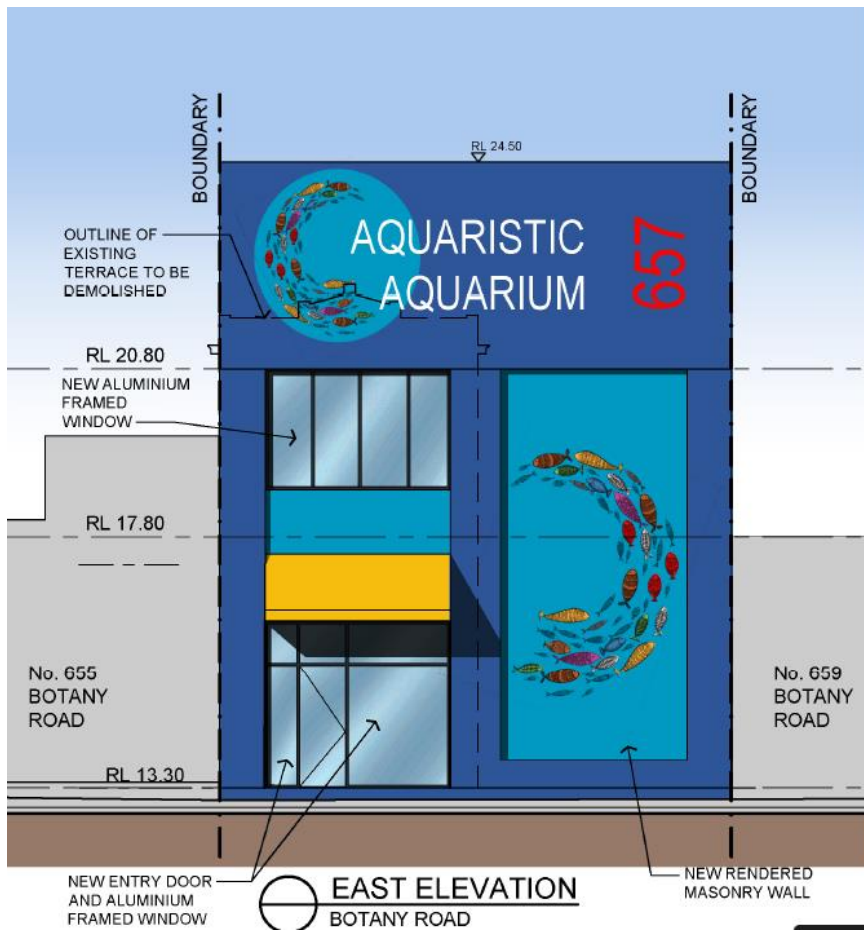


Figure 11: Originally proposal - Botany Road



Figure 12: Amended proposal - Botany Road.

Assessment

18. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

State Environmental Planning Policies

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

19. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
20. A Detailed Environmental Site Investigation (DESI) was undertaken to determine whether historical uses of the site resulted in contamination of the site. Ten primary samples were collected and analysed and determined that the site is suitable for the proposed use of the site.
21. Council's Health Unit has reviewed the information and is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Industry and Employment) 2021 – Chapter 3 Advertising and Signage

22. The aim of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage is to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.
23. Two (2) signs are proposed on the Botany Road frontage consisting of Building name sign above the first floor windows and an under awning sign. Both signs are proposed to consist of the name 'Aquaristic Aquarium' and are to be illuminated.
24. The proposed building name sign and under awning sign are consistent with the requirements of the SEPP (Industry and Employment) 2021 as outlined below.
25. The proposed overhead lighting to illuminate the building name sign will detract from the appearance of the building and is not supported. It is recommended that the sign be backlit if it is to be illuminated. Refer to Provision 3.16 of the DCP section below.
26. The proposed signage has been considered against the objectives of the policy and an assessment against the provisions within the assessment criteria set out in Schedule 5 is provided in the table below.

Provision	Compliance	Comment
Character of the area	Yes	<p>The proposed signage is generally consistent with the character of the area, subject to conditions.</p> <p>The site is located within the Village Main Streets signage precinct and is generally consistent with the objectives of the precinct. The proposed building name sign is consistent with other buildings along Botany Road and will not result in unacceptable impacts to the desired character of the area.</p>
Special areas	Yes	The proposed signage does not detract from the amenity or visual quality of the locality, subject to conditions.
Views and vistas	Yes	The proposed signage does not obscure or compromise any important views. It does not dominate the skyline and has no impact on the viewing rights of other advertisers.
Streetscape, setting or landscape	Yes	<p>The proposed signage is of an appropriate scale, proportion and form and provides a positive contribution to the streetscape and setting of the area.</p> <p>A condition has been recommended require plans at 1:20 detailing the proposed dimensions of both signs.</p>
Site and building	Yes	<p>The scale, proportion and positioning of the proposed signage is acceptable and the materiality is compatible with the finishes and colours of the building.</p> <p>A condition has been recommended require plans at 1:20 detailing the proposed dimensions of both signs.</p>
Associated devices and logos	Yes	Not applicable.
Illumination	Yes	Conditions of consent are recommended to ensure that the illumination does not result in unacceptable glare, affect safety or detract from the amenity of any residential accommodation.

Provision	Compliance	Comment
		The overhead lighting to illuminate the top of building sign is not supported. Refer to 'Provision 3.16 of the DCP section below.
Safety	Yes	The proposed signage will not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas.

27. Subject to conditions design detail and lighting, the proposed signage will be consistent with the objectives of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage as set out in Clause 3.1 and satisfies the assessment criteria specified in Schedule 5. State Environmental Planning Policy (Infrastructure) 2007.

State Environmental Planning Policy (Transport and Infrastructure) 2021

28. The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application.

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

Clause 2.118 – Development with frontage to classified road

29. The application is subject to Clause 2.118 of the SEPP as the site has frontage to Botany Road which is a classified road.
30. The application was referred to TfNSW for review and comments were received on 17 December 2021, supporting the application. Conditions of Consent are recommended.
31. The proposed development satisfies the provisions of Clause 101 subject to conditions of consent, as access to the site is not provided from the classified road and the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development, subject to the recommended conditions of consent.

Sydney Local Environmental Plan 2012

32. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in part B4 Mixed Use zone and part SP2 Infrastructure zone. The proposed development is defined as commercial building and is permissible with consent in the B4 Mixed Use zone but prohibited in the SP2 Infrastructure zone. The new building is wholly contained within the B4 Mixed Use zone and is acceptable. Works proposed within the SP2 zone only relate to demolition of existing structures. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 15m is permitted. A height of 12.38m is proposed to the top of the rooftop plant. The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio	Yes	A maximum base floor space ratio of 1.5:1 is permitted. The site falls within Area 5 of the Green Square additional floor space which allows for an additional 0.25:1 subject to the provisions of community infrastructure and compliance with design requirements. The proposal includes a 1.4m land dedication and a monetary continuation toward GSTC. Subject to design conditions the building will be appropriate in its context. A floor space ratio of 1.75:1 or 424sqm is proposed. The proposed development complies with the maximum bonus floor space ratio development standard.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.1 and 5.1A Development on land intended to be acquired for public purposes	Yes	<p>A 1.4 m wide strip of land on the Botany Road frontage is to be dedicated as required under the Sydney DCP.</p> <p>The proposal is supported by TfNSW. No building work will occur on the portion identified for acquisition other than demolition of existing structures.</p>
5.10 Heritage conservation	Yes	<p>The site is not identified as a heritage item and is not within a heritage conservation area. However, the existing terrace building is more than 50 years old. Refer to Provision 3.9 within the Development Control Plan for further discussion.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
6.14 Community infrastructure floor space at Green Square	Yes	<p>The proposed development is eligible for an additional floor space ratio of 0.25.. The proposal includes a Voluntary Planning Agreement to dedicate 1.4m of land within the B4 Mixed Use zone setback to Council for use as public domain and a monetary contribution of \$4,776.00 towards community infrastructure. See 'Financial Contributions' section below.</p>
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposed development uses materials and detailing which are compatible with the existing development along the street and subject to conditions will meet the future design intent for the precinct..</p>

Provision	Compliance	Comment
		<p>The use of face brick on the Botany Road facade responds to the neighbouring property at No. 655 Botany Road. While the use of cut out lettering and the painted background of the proposed building sign responds to the historical signage design of brick buildings within the area.</p> <p>Further design refinements are required to ensure the proposal achieves high design integrity. Refer to 'Discussion' section below.</p> <p>The development has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants. Subject to conditions the proposal is able to satisfy design excellence provisions.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.7 Retail premises	Yes	The proposal does not seek car parking.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.
7.15 Flood planning	Yes	<p>The site is identified as being subject to flooding.</p> <p>In accordance with the City's Interim Floodplain Management Policy a finished floor level of 0.3m above the surrounding ground is required. The proposed development complies with this requirement.</p>

Development Control Plans

Sydney Development Control Plan 2012

33. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

34. The site is located within the Beaconsfield locality. The proposed development is in keeping with the unique character and the design principles of the Beaconsfield locality. The proposal maintains the use of the site as commercial and subject to conditions meets with the desired future character of the precinct. Section 3 – General Provisions.

Provision	Compliance	Comment
3.4 Hierarchy of Centres, City South	Yes	The proposal is defined as 'minor retail development' as it is intended to be used as a single retail premises with a gross floor area under 1,000sqm. The use and size of the site is consistent with neighbouring sites and will not have a major impact on the objectives of the provision.
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under section 7.15 above.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	<p>The proposed development involves amalgamation of existing lots and subdivision into two lots, one containing the building and the other containing the open space at the Botany Road frontage (Lot 2). Lot 2 includes the SP2 zoned land and 1.4m public domain setback to be transferred to Council. The new allotment is regular in shape and allows for the orderly redevelopment of the site.</p> <p>The application was referred to Council's Specialist Surveyor, who supported the proposal, subject to conditions of consent.</p>

Provision	Compliance	Comment
3.9 Heritage	Yes	<p>The site is not identified as a heritage item nor located within a heritage conservation area. However, the existing terrace building is more than 50 years old and is subject to the heritage considerations under this section of the DCP.</p> <p>The existing Victorian terrace is common within the local government area and does not include significant features that warrant the retention of the building.</p> <p>Notwithstanding, to address the development history of the site, conditions requiring the photographic documentation of the existing building, and a written record of the site's development history are recommended. A condition is also recommended to require the salvaging and recycling of traditional building materials, to support the conservation and repair of similar buildings located within heritage conservation areas.</p>
3.11 Transport and Parking	No	<p>Four (4) bike parking spaces are proposed within the loading area, 2 for workers and 2 for visitors. A condition is recommended requiring 2 spaces for staff and 4 spaces for customers.</p> <p>The current design of the loading dock does not allow for access for service vehicles. A condition is recommended requiring the loading dock to be redesigned to allow for sufficient vehicle access</p>
3.12 Accessible Design	Yes	<p>The proposal is required to comply with the requirements of the BCA. The proposal includes an internal lift that allows access to all levels. An internal ramp provides equitable pedestrian access from Botany Road.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>

Provision	Compliance	Comment
3.14 Waste	Yes	<p>A dedicated waste storage area is proposed at the rear of the site adjacent to the loading dock and also includes separate access to Emanuel Lane for waste collection.</p> <p>A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p> <p>A condition is also recommended requiring an internal access door to be provided to the waste room from the loading dock.</p>
3.16 Signage and Advertising	Yes	<p>The proposed development includes the provision for one (1) building sign and one (1) under awning sign. Both signs consist of the name of the retail premises "Aquaristic Aquarium" and are to be illuminated.</p> <p>The proposed building sign complies with the provision as it is no higher than 15m above the existing ground level.</p> <p>The redesign of the sign responds to the architectural design of the building, providing improved integration with materials and colours. The use of individual lettering allows for the architectural expression to be seen behind the sign improving the appearance on the streetscape.</p> <p>The sign is proposed to consist of the sole tenants business name being "Aquaristic Aquarium". Given the design of the proposed development, the building will only be occupied by one tenant at a time.</p> <p>The proposed overhead lighting to illuminate the sign is not supported. A condition is recommended in 'Attachment A' requiring the top of building sign to be backlit.</p>

Provision	Compliance	Comment
		The site does not require a signage strategy as it is not located within a heritage conservation area, does not involve a heritage item, is not strata titled and does not contain more than four business premises.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	The site is permitted a maximum building height of 4 storeys. The proposed development is 2 storeys in height and complies.
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	The proposed development achieves floor to floor height of 4.5m at ground level and 2.7m at the levels above.
4.2.2 Building setbacks	Yes	The building is built to the to the rear and side boundaries. The front facade of the building will be located on the new boundary line. The proposed Botany Road awning will project over the 1.4m public domain setback. No portion of the awning will overhang SP2 zoned land.
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	The proposal results in additional overshadowing to neighbouring residential sites however complies with the provision. See 'Discussion' section below.
4.2.6 Waste and recycling Management	Yes	A waste storage area is proposed at the rear of the site adjacent to the loading dock with separate access to Emanuel Lane for waste collection.

Provision	Compliance	Comment
		<p>A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p> <p>A condition is also recommended requiring an internal access door to be provided to the waste room from the loading dock.</p>
4.2.9 Non-residential development in the B4 Mixed Uses Zone	Yes	Subject to conditions, the development will not adversely impact the amenity of neighbouring residential properties.

Section 5 – Specific Areas

Provision	Compliance	Comment
Green Square	Yes	The proposal retains a commercial use and includes a new building that subject to condition will meet with the design intent of the precinct. The proposed retail use will complement the desired future character of the Green Square precinct by reinforcing Botany Road as the main commercial spine.

Discussion

Solar Access

35. Section 4.1.3 of the Sydney DCP 2012 recommends that 8sqm of the principle private open space (POS) and 1sqm of the primary living room of residential dwellings achieve a minimum of 2 hours of direct sunlight between 9.00am and 3.00pm at the winter solstice. Whilst the site is proposed for commercial use, it is located within close proximity to residential dwellings to the east along Emanuel Lane.
36. To enable a detailed assessment, the applicant has provided shadow diagrams which are reproduced below. The diagrams identify existing shadows in light grey shading and existing shadows in dark grey shading. The subject site is illustrated by the red outline.
37. The diagrams show that the proposal will result in some additional overshadowing to No's 3-17 along the western side of Princess Avenue and 1A Cressy Street, however, this will occur after 1pm. This will impact on the roof of existing laneway structures, POS and rear facing windows. These sites are already impacted by significant overshadowing from buildings along Botany Road as well as structures of their respective sites.

1-13 Princess Avenue and 1A Cressy Street:

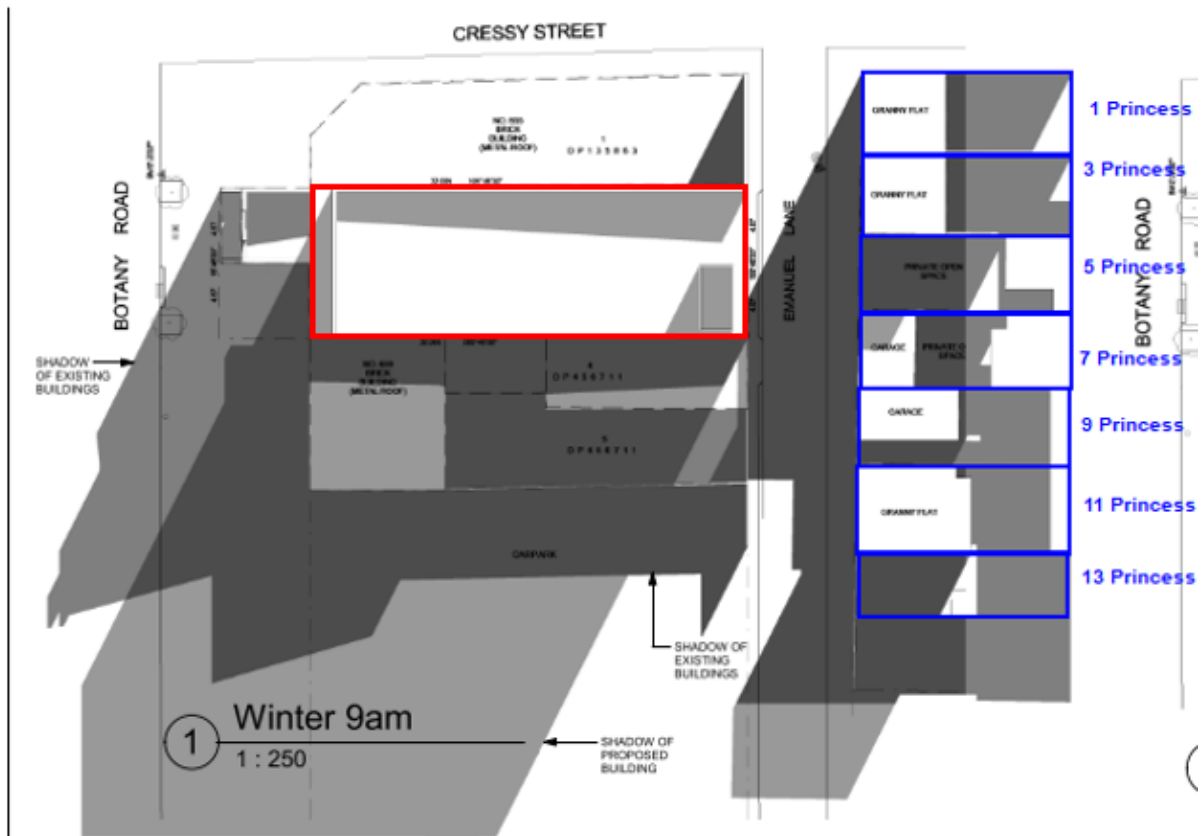
38. 1-13 Princess Avenue and 1A Cressy Street contains 8 dwellings of varying heights and building typologies. Many of the sites contain existing laneway structures, including garages, granny flats and pergolas that create existing overshadowing to the POS during mid-winter. The sites are also overshadowed by existing commercial buildings along Botany Road. As demonstrated in Tables 1 and 2 above, the proposed development will result in some overshadowing during June 21, however this will occur after 12.00pm and is minor in nature, reducing existing solar access by less than 1sqm to Nos. 5, 9 and 13.
39. The additional overshadowing is deemed acceptable for the following reasons:
- The proposal sits within the height control and is located to the west of the majority of the affected sites.
 - The majority of affected sites contain existing structures that create overshadowing for the majority of the day, the proposal creates minimal additional overshadowing.

	1 Princess		3 Princess		5 Princess		7 Princess	
Time	Existing	Impact	Existing	Impact	Existing	Impact	Existing	Impact
9.00am	0sqm	Nil	0sqm	Nil	3.1sqm	Nil	<1sqm	Nil
12.00pm	<1sqm	Nil	0sqm	Nil	<1sqm	Nil	1.3sqm	Nil
3.00pm	2.2sqm	Nil	0sqm	Nil	2.6sqm	<1sqm	0sqm	Nil

Table 1: Private Open Space – Existing and Impact 1-7 Princess Avenue

	9 Princess		11 Princess		13 Princess		1A Cressy Street	
Time	Existing	Impact	Existing	Impact	Existing	Impact	Existing	Impact
9.00am	<1sqm	Nil	0sqm	Nil	4sqm	Nil	0sqm	Nil
12.00pm	<1sqm	Nil	<1sqm	Nil	1.7sqm	Nil	0sqm	Nil
3.00pm	<1sqm	-1sqm	0sqm	Nil	<1sqm	-1sqm	0sqm	Nil

Table 2: Private Open Space – Existing and Impact 9-13 Princess Avenue and 1A Cressy Street.



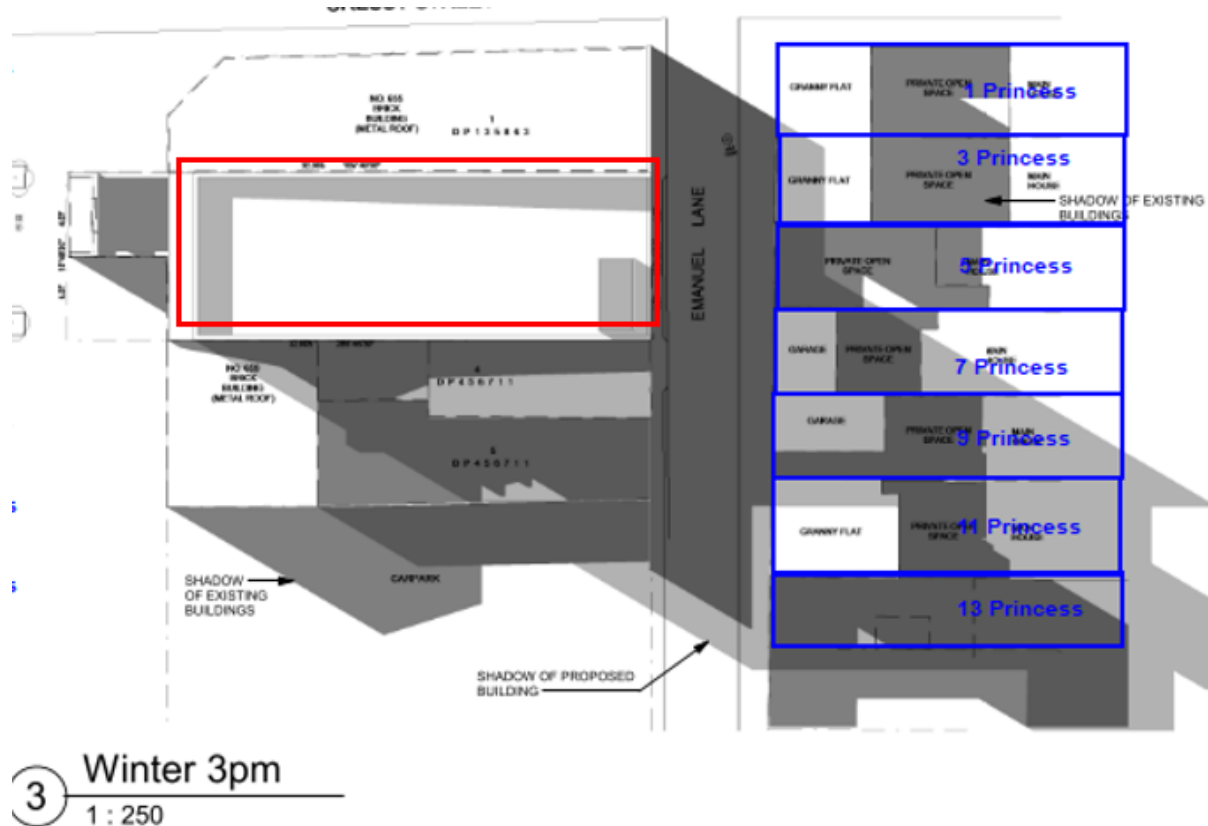


Figure 13: Shadow Diagrams June 21 at 9am, 12pm, and 3pm and location of affected properties (blue) and subject site (red).

Building Design

40. The amended design includes the use of brick to the Botany Road, carrying the design around to part of the side elevations. The use of a number of horizontal brick bands courses on the Botany Road facade provides articulation and detail to the facade.
41. The proposed awning on the Botany Road facade will provide weather protection for customers and pedestrians and provide further articulation to the facade. The awning is proposed over the 1.4m public domain setback to be dedicated to Council. A condition is recommended requiring details of the awning to be provided for further assessment.
42. Whilst neighbouring sites could redevelop to be of a similar height in the future, the side elevations will be highly visible along Botany Road and Cressy Street before this occurs. A condition is recommended requiring details to be provided of the intended materials and colours for further assessment to ensure impacts to the streetscape are minimised.
43. To provide an improved presentation to the laneway a condition is recommended requiring the design of the rear elevation of the building to be further refined.

Consultation

Internal Referrals

44. The application was discussed with Council's Environmental Health Unit; Heritage and Urban Design Unit, Waste Unit and Public Domain Unit who advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Recommended Conditions of Consent.

External Referrals

Transport for NSW

45. Pursuant to Section 101 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for comment.
46. Comments were received on 17 December 2021. Conditions of consent were recommended which are included in the Recommended Conditions of Consent.

Advertising and Notification

47. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 14 days between 30 November 2021 and 15 December 2021. A total of 36 properties were notified and 4 submissions were received.

48. The submissions raised the following issues:

- (a) **Issue:** The demolition of the existing 137 year old terrace building is a shame and should be protected as it is one of the oldest buildings in the area still standing. The terrace should be integrated into the proposed development to preserve the history.

Response: The terrace is located within SP2 zoned land and cannot be incorporated into the proposed development. The terrace is not heritage listed or within a heritage conservation area. Conditions are recommended for the applicant to provide documentation outlining the history of the terrace to be incorporated into the City's archives.

- (b) **Issue:** The proposal will result in overshadowing and lack of sunlight to the properties to the rear of the site on Emanuel Lane.

Response: Submitted shadow diagrams demonstrate that the proposed development will not result in significant overshadowing to residential dwellings along Emanuel Lane to the rear of the site. Refer to 'Discussions' section above.

- (c) **Issue:** Proposed windows on the Emanuel façade could result in privacy impacts to residential dwellings.

Response: A condition is recommended requiring all windows to use opaque glass to minimise visual privacy impacts.

- (d) **Issue:** The proposed floor space/ size of the development does not fit in with the community standard and is not consistent with existing buildings within the area. This will result in impacts to the existing look and feel of the area.

Response: The proposal complies with the maximum Floor Space Ratio and Height of Buildings controls of the Sydney Local Environmental Plan 2012. Whilst the proposal is the first to redevelop the site in accordance with the controls, it remains consistent with the intended future character of Botany Road. The proposal maintains the existing use of the site as a retail premises.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

49. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
50. Credits have been applied for the most recent approved use of the site as a healing centre and was identified as a business premises.
51. The proposed development is a retail premises and is classified as 'shops including neighbourhood shops (excluding supermarkets)' under the contributions plan. No additional contributions are required.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

52. The site is located within the Green Square affordable housing contribution area. As the proposed development includes additional floor space, a contribution is required at a rate of 11,599.74 per square metre of total non-residential floor area 452sqm totalling \$52,430.83. A condition of consent is recommended requiring payment prior to the issue of a construction certificate.

Relevant Legislation

53. Environmental Planning and Assessment Act 1979.

Conclusion

54. The proposal is recommended for approval as it complies with the relevant controls of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012, provides a land use compatible with the locality and does not result in significant environmental impacts to the site or neighbouring sites.

ANDREW THOMAS

Executive Manager Planning and Development

Shaun de Smeth, Specialist Planner

Attachment A

Recommended Conditions of Consent

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 condition is satisfied, within **24 months** of the date of this determination:

(1) VOLUNTARY PLANNING AGREEMENT

- (a) The Voluntary Planning Agreement between the COUNCIL OF THE CITY OF SYDNEY and PICO ALPHA PTY LTD shall be exhibited, executed and submitted to Council; and
 - (b) The monetary contribution must be paid in accordance with the Voluntary Planning Agreement; and
 - (c) The guarantee must be provided in accordance with the Voluntary Planning Agreement; and
 - (d) The Voluntary Planning Agreement, as executed, must be registered on the title of the land.
- (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

PART A - GENERAL

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2021/1335 dated 16 November 2021 and the following drawings prepared by Hely Horne Perry Architects:

Drawing Number	Drawing Name	Date
019	Proposed Site Plan Roof Plan	01/09/2022
025	Demolition Plan	29/11/2021
021	Ground & First Floor Proposed Plans	29/06/2022
022	Mezzanine Floor Proposed Plan	26/06/2022
023	Elevations	15/08/2022
1126	Elevations	N/A
024	Sections	29/06/2022

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.

Reason

To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

(2) COMPLIANCE WITH VOLUNTARY PLANNING AGREEMENT

The terms of the Planning Agreement between the Council of the City of Sydney and Pico Alpha Pty Ltd are to be complied with. In accordance with the Planning Agreement, the completion of the developer's works and dedication of land are required prior to the first Occupation Certificate.

Reason

To comply with the Voluntary Planning Agreement

(3) AFFORDABLE HOUSING CONTRIBUTION – GREEN SQUARE OR EMPLOYMENT LANDS – PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION – PRIOR TO CONSTRUCTION CERTIFICATE

- (a) In accordance with the City of Sydney Affordable Housing Program and prior to the issue of a Construction Certificate, the applicant must provide evidence that a monetary contribution towards the provision of affordable housing has been paid to the City of Sydney Council.

- (b) The contribution is \$52,430.83 (indexed at 1 March 2022). This is calculated by establishing the sum of the equivalent monetary contribution \$11,599.74 multiplied by 1% of the total floor area for non-residential development (452sqm).
- (c) If the contribution is paid after the indexation period in which the consent is granted, being March 2022 to February 2023, the above contribution will be adjusted according to the Sydney LGA median strata dwelling price ('MDP') using the following formula.
- (d) Contribution payable at Time of Payment = $C \times MDP2 / MDP1$, where:
 - (i) C is the original total contribution amount payable to the City of Sydney as shown above;
 - (ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA taken from the most recent NSW Government Rent and Sales Report at the time of indexation of the equivalent monetary contribution rate; and
 - (iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Report used to establish the current equivalent monetary contribution rate, being March 2022 to February 2023.

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

Reason

To ensure development contributions are paid to contribute to the provision of essential affordable rental housing infrastructure.

(4) DESIGN MODIFICATIONS/DETAILS

- (a) The design of the rear elevation of the building is to be refined to provide an improved presentation of the building to the laneway. In this regard consideration should be given to incorporating materials and design elements consistent with the front elevation of the building such as the use of brickwork, brick banding and incorporation of horizontal window elements and projecting window surrounds. All windows and doors are to be set into the facade to give depth to the facade. The building is also to be designed to ensure that it is contained wholly within the site boundaries adjacent the laneway.
- (b) The exposed blank side elevations of the building are to provide a quality finish. In this regard details of the material, colour and architectural detailing of the elevations are to be provided.
- (c) The loading dock/service area is to be redesigned such that it can accommodate a service vehicle on site to allow loading/unloading to occur within the building. In addition an internal access is to be provided from the loading dock/service area to the waste room.

- (d) No overhead lighting is to be provided to the wall / business name sign. Should the sign be illuminated, an alternative scheme must be delivered whereby the letters are backlit without any projecting lights. The letters are to be individually laser cut. Details of the under awning sign is to be provided. Signage details are to be provided at a minimum scale of 1:20 are to be provided and include dimensions.
- (e) Details of the awning on Botany Road at a minimum scale of 1:20 are to be provided.
- (f) The submitted floor plans and elevations to the laneway are inconsistent with each other. Plans that match are to be submitted.

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

Reason

To ensure that design details are clarified and the development provides an appropriate design response to the locality.

(5) MATERIALS AND SAMPLES BOARD – MAJOR DEVELOPMENT

- (a) A physical material sample board which specifies all proposed materials, finishes and colours, (including visible rainwater goods and services) keyed to each building elevation must be submitted to and approved by Council's Area Planning Manager prior to a Construction Certificate being issued. The materials and samples board must not include generic material or colour descriptions or use terminology such as 'or similar'.

Reason

To ensure that the development provides an appropriate design response to the locality.

(6) SIGN ILLUMINATION

- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood and as such must be designed, installed and used in accordance with AS4282-1997 Control of Obtrusive Effects of Outdoor Lighting.
- (b) The sign(s) must not flash. Signs with flashing, chasing, pulsating or flickering lights are not permitted.
- (c) The maximum night time luminance of any sign is not to exceed 300 cd/sqm.
- (d) Signage is only permitted to be illuminated while a premises is open.
- (e) Upward facing light sources onto the signage is not permitted.

Reason

To ensure signage illumination is designed in accordance with the Australian Standards and Council's DCP.

(7) SIGNAGE GENERAL REQUIREMENTS

The design of the approved signage must comply with the following:

- (a) The signage is not to contain highly reflective materials, colours and finishes.
- (b) The signage is not to incorporate sound, vibration, odour and other emissions.

Reason

To ensure signage is designed in accordance with Council's DCP.

(8) SIGNS/GOODS IN THE PUBLIC WAY

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

Reason

To ensure the public domain is kept free from physical obstructions.

(9) SURVEYS PRIOR TO COMMENCEMENT AND PRIOR TO OCCUPATION CERTIFICATE

- (a) **PRIOR TO FOUNDATION STAGE** - All footings and walls adjacent to a boundary or setback line must be set out by a surveyor registered under the Surveying & Spatial Information Act, 2002, and a copy of the survey report provided to the Principal Certifier.
- (b) **AT FOUNDATION STAGE** - Upon commencement of wall construction, by the time the perimeter wall has reached one metre in height, all work on the site shall cease unless a survey and report has been submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment, and the setbacks. 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.**AT COMPLETION** –Prior to the issue of any staged or Final Occupation Certificate for the building - A Final Identification Survey prepared and signed by a Surveyor registered under the Surveying & Spatial Information Act, 2002 must be submitted at the completion of the building work certifying the location of the building in relation to the boundaries of the allotment. Any encroachments of the building over the side boundaries must be removed, or alternatively appropriate easements under Section 88B of the Conveyancing Act, 1919, with terms to the satisfaction of Council, must be

lodged with the office of NSW Land Registry Services, and evidence of lodgement provided to the Principal Certifier prior to the issue of any staged or Final Occupation Certificate.

(10) LAND SUBDIVISION – SUBDIVISION CERTIFICATE

A separate application must be made online through the Planning Portal, at www.planningportal.nsw.gov.au to obtain the approval of the plan of subdivision and issue of a Subdivision Certificate under Section 6.15 of the Environmental Planning and Assessment Act 1979. Go to the “Post Consent Certificates” section on the website for Subdivision Certificates. It is recommended that the PDF versions of the subdivision, Administration sheets & Section 88B Instrument that are uploaded are between 300 & 600 dpi as these may be digitally signed.

(11) STREET ADDRESSES OF LOTS

In accordance with Clause 60(c) of the Surveying and Spatial Information Regulation 2017, the street addresses for each lot must be shown on the final plan of subdivision. An application must be made to Council’s Spatial Services Unit prior to the lodgement of the subdivision application, to obtain the correct street address for each lot. The street address/es allocated by Council must be provided to the registered surveyor for inclusion in a schedule on sheet 2 of the Administration Sheet.

(12) SURVEY INFRASTRUCTURE – REFERENCE MARKS & PERMANENT MARKS

Prior to the issue of the subdivision certificates for each subdivision stage, sufficient survey infrastructure, including reference marks and permanent marks, must remain in place in order to satisfy the requirements of the Surveying and Spatial Information Regulation 2017, and to the satisfaction of Council.

(13) SYDNEY WATER SECTION 73 CERTIFICATE - SUBDIVISION

- (a) Prior to the issue of a Subdivision/Strata Certificate for each stage, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.
- (b) 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.
- (c) 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.

- (d) The Section 73 Certificate must be submitted to Council prior to a Subdivision Certificate being issued. It should be noted that a separate Section 73 certificate for the dedication only stage will not be required.

(14) LAND DEDICATION – NO LONG TERM ENVIRONMENTAL MANAGEMENT PLAN

Any land that is to be dedicated to the City as part of the associated Voluntary Planning Agreement must not be encumbered by any Environmental Management Plan or Long Term Environmental Management Plan.

PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

(15) 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.

(16) SUBDIVISION PLAN – SOME WORKS PRIOR TO CONSTRUCTION CERTIFICATE

- (a) Prior to the issue of any approval for demolition or Construction Certificate, the initial boundary definition survey work necessary for the preparation of a subdivision plan 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) A plan or CAD file showing the redefined boundaries shall be provided to the project architect, who shall certify in writing that the proposed building as designed will fit within the redefined boundaries, without causing any encroachment of the proposed additions or any overhangs attached to the proposed additions. This written confirmation shall be provided to the PCA prior to the issue of a Construction Certificate.
- (c) Prior to the issue of any Staged or Final Occupation Certificate for the building, the subdivision 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 subdivision plan must be supplied to the Principal Certifier prior to the issue of a Staged or Final Occupation Certificate for

the building. Redefinition of the boundaries prior to construction will minimise the risk of problems with encroachment and consequent significant delays and expense. Should the registered surveyor form the opinion that registration of the subdivision plan prior to construction is necessary due to the potential for disagreement with the boundary fixation, then the requirements in this subclause relating to showing the new building on the plan need not apply.

- (d) The subdivision may be carried out in two stages if so desired, the first stage creating two lots, and the second stage subdivision dedicating the road widening. The land to be dedicated must be shown as a separate lot on the plan, in order for a title to issue.
- (e) The public domain works within the dedication area must be completed to the satisfaction of the Public Domain division prior to the release of the subdivision certificate for the dedication plan.
- (f) The current lots 2 & 3 of Section 1 in DP 2269 shall be consolidated with the subdivision

Advisory note: It is recommended that the Construction Certificate plans provide for the external walls of the building to be set back a minimum of 20 millimetres from the boundaries to allow for construction tolerances and minimise risk of encroachment and consequent delays and expenses.

(17) PUBLIC DOMAIN LEVELS AND GRAIDENTS - MAJOR

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/development/public-domain-works/da-associated-works>.

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

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

(18) STORMWATER AND DRAINAGE - MINOR DEVELOPMENT

The sites roof drainage system is to be constructed in accordance with the City's standard requirements as detailed in the City of Sydney's Stormwater Drainage Manual. The development is to be designed so that the flow of pollutants from the site due to stormwater is reduced.

The maximum allowable site discharge to a direct kerb outlet is 25 litres/sec in the 5%AEP storm event. Flows in excess of this must be connected to an underground piped/pit system.

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

(19) 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 upgrade work complies with the City of Sydney's *Public Domain Manual, Sydney Streets Code, Sydney Street Tree Masterplan, Sydney Lights: Public Domain Design Code, Sydney Streets Technical Specification*. The documentation must be *checked, be 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 For Construction issue 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/development/public-domain-works/da-associated-works>.

The Public Domain Plan documentation must be submitted with an *Application for Public Domain Plan Assessment* and include the approved Public Domain Levels and Gradients documentation. 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.

(20) HOLD POINTS

Prior to an approval being issued for the construction of public domain and / or planning agreement works, including civil, drainage and subsurface works, a set of hold points will be provided by the City's Public Domain Unit in accordance with the City's *Public Domain Manual* and *Sydney Streets Technical Specification*. The list of hold point inspections will be included in the Public Domain works approval letter.

These holds point inspections must be adhered to during construction works. Prior to the issue of any Occupation Certificate, confirmation from the City's Public Domain Unit, that hold point inspections have been completed and works have been accepted by the City must be provided to the Principal Certifier.

(21) STORMWATER DRAINAGE CONNECTION

For approval of a connection into the City of Sydney's underground drainage infrastructure system an *Application for Approval of Stormwater Drainage Connection* 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 approval being issued for the construction of public domain work.

Note connection to pipes/pits on Botany Road require the approval of Transport for NSW not City of Sydney.

(22) PUBLIC DOMAIN WORKS SECURITY BOND

A Public Domain Works Security Bond will be required for the public domain works and 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 City's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The bond must be lodged with the City prior to approval being issued for the construction of the public domain works.

The bond will be retained in full until all public domain works, including any rectification of damage to the public domain, are completed to City's standards, and the required work as executed documentation is approved. On satisfying the above requirements and the issue of the Public Domain Works Letter of Completion Operational Acceptance by the City, 90% of the bond will be released. The remaining 10% balance will be held for the duration of the specified defects liability period.

(23) 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 Completion. The date of Completion will be nominated by Council on the Public Domain Works Letter of Completion Operational Acceptance.

(24) DRAINAGE AND SERVICE PIT LIDS

All existing or proposed drainage and utility 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 the 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 the City's Public Domain Unit prior to the issue of an approval for public domain works.

(25) 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.

(26) FLOOD PLANNING LEVELS

The development must be constructed to comply with the recommended flood planning levels of 13.62m AHD Botany Road frontage and 14.0m AHD Emanuel Lane frontage.

Details must be submitted to the Principal Certifier prior to the issue of any Construction Certificate demonstrating that the development will comply with the recommended flood planning levels.

(27) BICYCLE PARKING AND END OF TRIP FACILITIES

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

Bicycle Parking Type	Number	Requirements
Staff	2	Class A bicycle Parking facility in accordance with AS2890.3
Customers/ visitors	4	Class A bicycle Parking facility in accordance with AS2890.3

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

Reason

To ensure the allocation of bicycle parking is in accordance with Australian Standards and the Council's DCP.

(28) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

- (a) A Construction Traffic Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.
- (b) 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>

Reason

To ensure that the impacts of construction traffic is appropriately managed.

(29) SALVAGE, REUSE AND RECYCLING OF TRADITIONAL BUILDING MATERIALS – MAJOR DEVELOPMENT

Stone, bricks, roof tiles joinery and decorative architectural elements to be demolished, which include stairs, windows and doors, chimney pieces and ceiling roses must be salvaged and where possible reused on the project.

Salvaged building materials surplus to the project must either be stored on site for future reuse or transferred to an established second building material dealer for recycling.

Documentation of the salvage methodology must be submitted to and approved by Council's Urban Design and Heritage Manager / Area Planning Manager prior to the issue of a Construction Certificate.

Reason

To ensure the salvaging and reuse of traditional building materials.

(30) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION

Prior to a Construction Certificate being issued, an archival photographic recording of the Victorian Building at 657 Botany Road is to be prepared to Council's satisfaction. The recording is to be in digital form and prepared in accordance with the NSW Heritage Division 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 or digital file transfer in PDF/A format, (created directly from the digital original), with the digital catalogue of images containing the following data for each location, image subject/description and date.
- (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.

Reason

To ensure appropriate archival documentation of the building.

(31) 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.

Reason

To ensure the ventilation complies with relevant standards.

(32) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

- (a) 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.
- (b) The operational and construction Waste and Recycling Management Plans accompanying this Development Application has been approved by this consent.
- (c) Requirements of the approved Waste and Recycling Management Plans must be implemented during construction and operation of the development.

UPON COMPLETION OF THE DEVELOPMENT

- (d) 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.

Reason

To ensure that waste and recycling is appropriately managed.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

(33) 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 Council's Area Coordinator Planning Assessments / 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.

Reason

To ensure that hazardous waste is waste is managed appropriately.

(34) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of neighbouring properties 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.

Reason

To ensure that dilapidation reports are prepared and to identify damage to adjoining/nearby properties resulting from building work on the development site.

(35) 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.

Reason

To ensure that appropriate erosion and sediment control measures are put in place during construction to protect the environment.

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

A site specific noise management plan must 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.

Reason

To ensure an adequate construction noise and vibration management plan is prepared.

(37) PUBLIC DOMAIN WORK - CONSTRUCTION APPROVAL UNDER SECTION 138 ROADS ACT 1993

Prior to the construction of any public domain works, approval under Section 138 / 139 of the Roads Act 1993 must be issued by the City's Public Domain Unit.

(38) 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 Sections 138/139 of the *Roads Act 1993* must be submitted to and approved by 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 Sections 138/139 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*).

Reason

To ensure the necessary approval is obtained for temporary structures over a public road.

(39) 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.

Reason

To ensure the development satisfies Sydney Waters requirements.

(40) ROAD OPENING APPLICATION

A separate road opening application under Sections 138/139 of the *Roads Act 1993* must be submitted to and approved by 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).

Reason

To ensure that approval under the Roads Act is obtained.

(41) 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.

Reason

To ensure sediment is not tracked onto the roadway.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

(42) 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 separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 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 Team, 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*.

Reason

To protect the amenity of the surrounding area.

(43) PUBLIC DOMAIN DAMAGE SECURITY BOND

- (a) A Public Domain Damage Security Bond calculated based on 45 square metres of concrete site frontage must be lodged with the City in accordance with the City of Sydney's adopted fees and charges. The bond must be provided as security for repairing any damage to the public domain in the vicinity of the site.
- (b) The City's Public Domain Unit must be contacted to determine the bond amount prior to lodgement. The Bond must be lodged with the City prior to an approval for demolition being granted or any Construction Certificate being issued, whichever is earlier.

- (c) The bond in this condition will be released in full when the Public Domain Works Security Bond is lodged with the City.

(44) 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 must 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.

Reason

To ensure that the handling and removal of asbestos from the site is appropriately managed.

(45) 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.

Reason

To protect the amenity of the surrounding area.

(46) 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 (EHO to specify hours)
- (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*.

Reason

To protect the amenity of the surrounding area.

(47) 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.*

Reason

To ensure hazardous/ industrial waste is managed appropriately.

(48) 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.

Reason

To ensure loads are managed appropriately and do not impact local amenity.

(49) STOCKPILES

- (a) No stockpiles of soil or other materials must 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 must 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 must be covered.
- (d) All stockpiles of contaminated soil must be stored in a secure area and be covered if remaining more than 24 hours.

Reason

To ensure that stockpiles of soil or other materials are appropriately managed.

(50) NOTIFICATION – NEW CONTAMINATION EVIDENCE

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

Reason

To ensure that the site is appropriately remediated.

(51) IMPORTED FILL MATERIALS

All fill imported onto the site must 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.

Reason

To ensure that imported fill is not contaminated

(52) CLASSIFICATION OF WASTE

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the *Environment Operations Act 1997* and the *NSW DECC Waste Classification Guidelines, Part1: Classifying Waste (July 2009)*. The classification of the material is essential to determine where the waste may be legally taken. The *Protection of the Environment Operations Act 1997* provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for the particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

Reason

To ensure that waste from site is classified and disposed of appropriately.

(53) 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 application under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

Reason

To protect the amenity of the public domain.

(54) NO OBSTRUCTION OF PUBLIC WAY

Unless otherwise approved by Council, the public way must not be obstructed by any materials, vehicles, waste receptacles, skip-bins or the like. Non-compliance with this requirement may result in the issue of a notice by Council to stop all work on the site.

Reason

To protect the amenity of the public domain.

(55) 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 separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Reason

To ensure mobile cranes are used appropriately.

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

(56) 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.

(57) PUBLIC DOMAIN WORKS COMPLETION

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

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

(58) PUBLIC DOMAIN COMPLETION - WORK AS EXECUTED DOCUMENTATION

Prior to a Public Domain Works Letter of Completion Operational Acceptance 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. Details of the plans and documentation required for approval will be advised by the City's Public Domain Unit.

(59) 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.

Reason

To ensure that waste and recycling is appropriately managed.

PART F – OCCUPATION AND ONGOING USE

(60) 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.

Reason

To ensure the site is authorised for occupation.

(61) 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 must 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.

Reason

To protect the acoustic amenity of surrounding properties.

(62) TRADING HOURS- MINOR DEVELOPMENT

The trading hours are restricted to between 9.00am and 7.00pm Monday to Friday and between 9.00am and 6.00pm Saturday and Sunday.

Reason

To ensure the premises operates within the approved hours of operation.

(63) 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. Any security grill is to be a dark recessive colour, located on the inside of the shop front, must be an open grille / see through and not a solid metal type. Details are to be submitted to and approved by the Accredited Certifier prior to a Construction Certificate being issued.
- (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.

Reason

To ensure an appropriate presentation to the public domain.

(64) ON SITE LOADING AREAS AND OPERATION

All loading and unloading operations associated with servicing the site must be carried out within the confines of 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.

Reason

To maintain the orderly operation of vehicle parking areas and to ensure the public domain is kept free from physical obstructions.

(65) WASTE/RECYCLING COLLECTION - COMMERCIAL

- (a) Waste storage and 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) Waste and recycling bins must not be placed on the street for collection. Services must be conducted within the property boundary or as a wheel-out/wheel-back service.
- (c) Unimpeded access must be provided for collection vehicles to set down within 10 metres of waste storage areas during zone collection times on collection days.

Reason

To ensure that waste and recycling is appropriately managed.

SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2000* apply:

- Clause 98 Compliance with *Building Code of Australia* and insurance requirements under the *Home Building Act 1989*
- Clause 98A Erection of signs
- Clause 98B Notification of *Home Building Act 1989* requirements
- Clause 98C Conditions relating to entertainment venues
- Clause 98D Conditions relating to maximum capacity signage
- Clause 98E Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*. This can be accessed at: <http://www.legislation.nsw.gov.au>

Schedule 3

TERMS OF APPROVAL

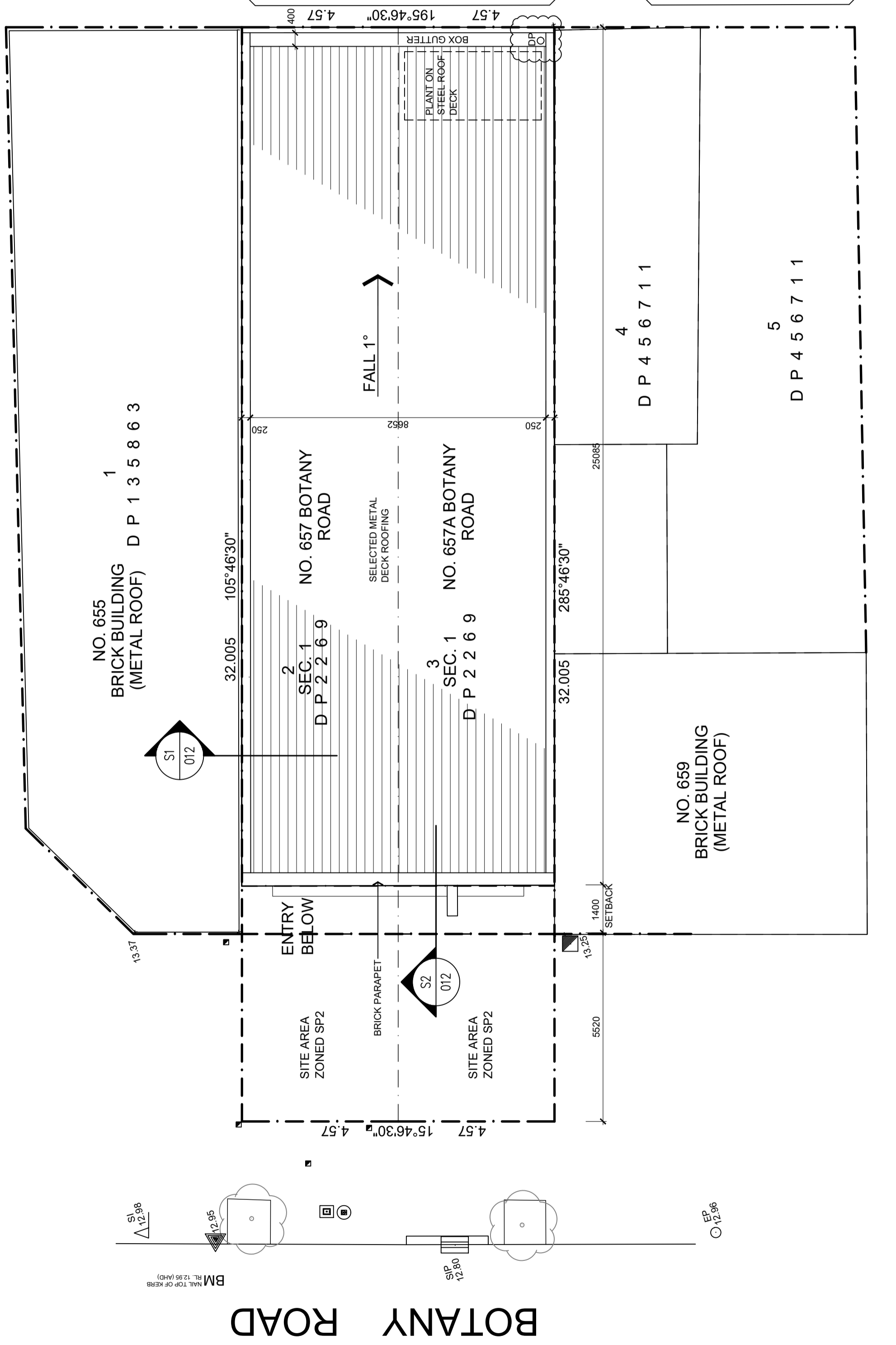
The Terms of Approval for the Development as advised by Transport for NSW are as follows:

- (66)** Any new building or structures including signage together with any improvements integral to the future use of the site, are erected clear of the land required for road unlimited in height or depth.
- (67)** All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Botany Road.
- (68)** A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Botany Road during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

Attachment B

Selected Drawings

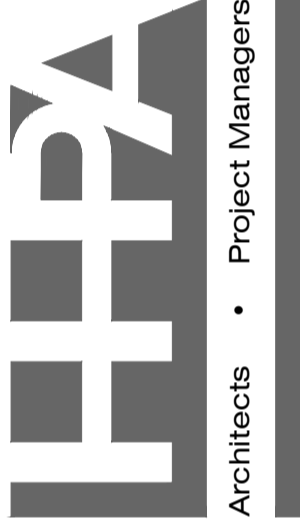
CRESSY STREET



EMANUEL LANE

SITE PLAN
PROPOSED LAYOUT

No. A	AMENDMENTS	Drawn Date
A	ISSUED FOR DA	JP 28-11-21
B	- DP ADDED	- JP - 01-09-22
-	-	-
-	-	-
-	-	-



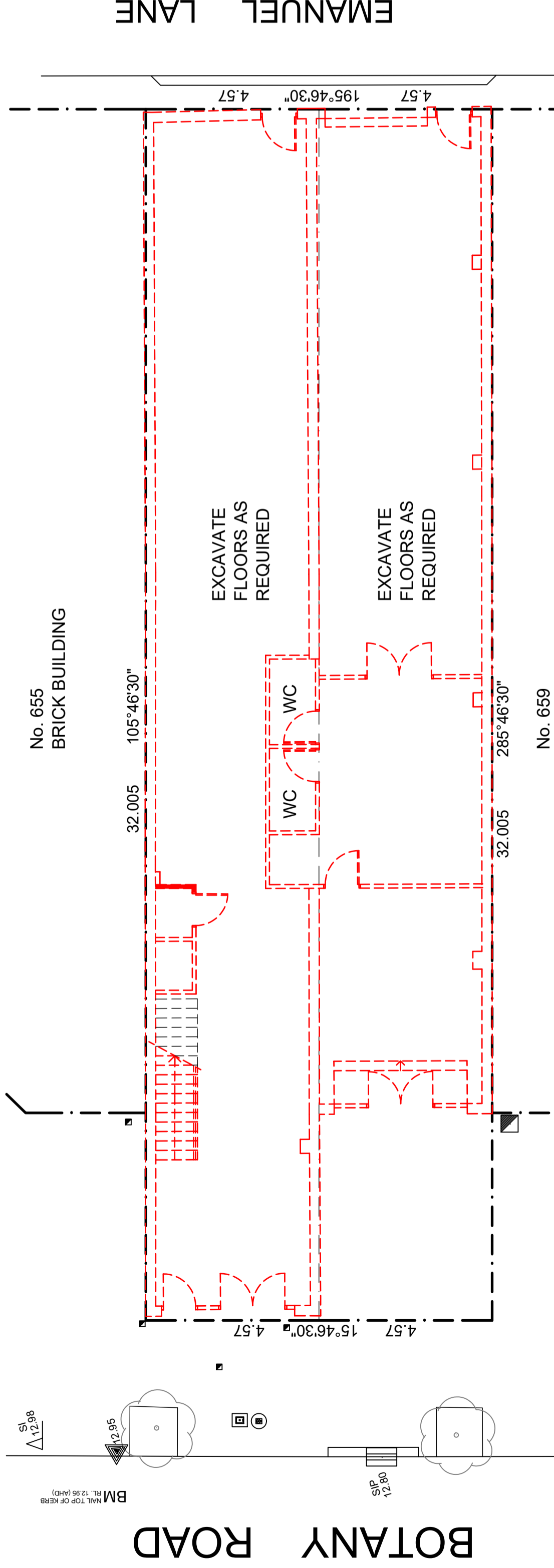
PROJECT
AQUARISTIC
657-657A BOTANY RD, ROSEBERRY

DRAWING
PROPOSED SITE PLAN
ROOF PLAN

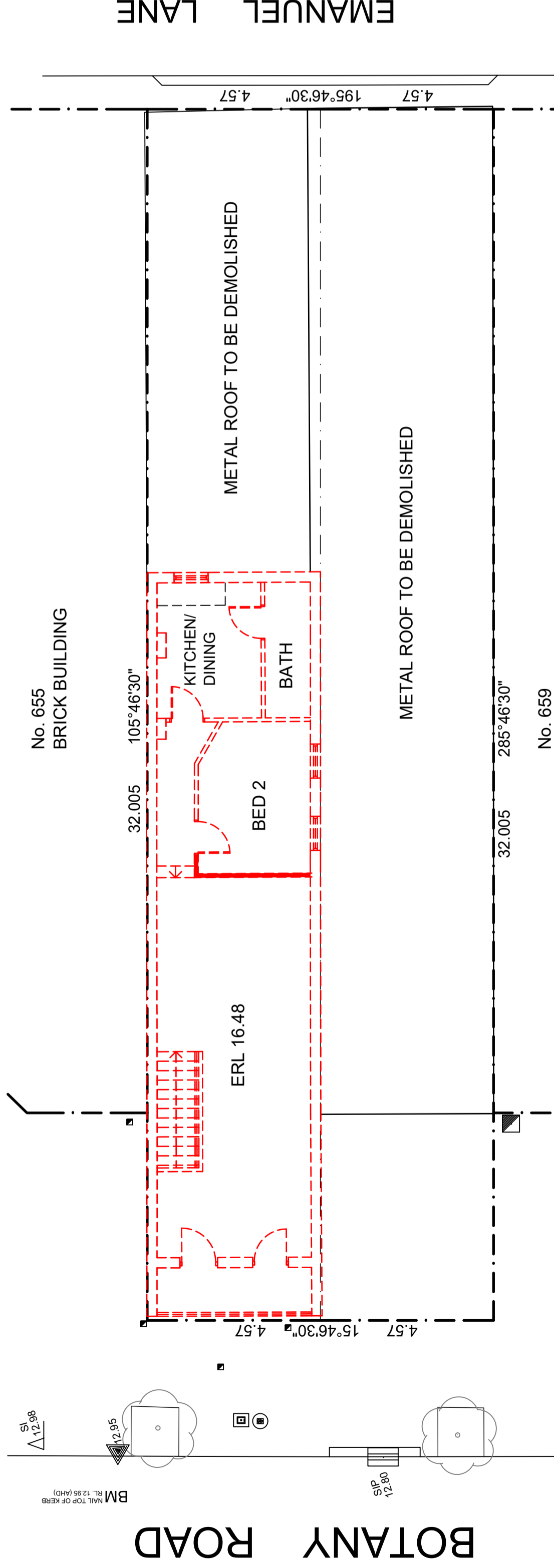
DATE NOV 21 DRAWN CA REVISION B

DRAWING NO. 1126
PROJECT SHEET A2
SCALE 1:100

Hely Horne Perry Architects Pty Ltd
A. B. N. 2 5 1 3 1 4 4 8 7 2 9
Email: mail@hpa.com.au Telephone (02) 9929 2800
Nominated Architect: John Perry Reg. No. 8846



GROUND FLOOR PLAN



FIRST FLOOR PLAN

DEMOLITION NOTES:

1. ALL WORK TO BE CARRIED OUT IN ACCORDANCE WITH RELEVANT AUSTRALIAN STANDARDS INCLUDING AS2601 (2001+ AS AMENDED) THE DEMOLITION OF STRUCTURES, CODES AND LOCAL AUTHORITY REQUIREMENTS.
2. ALL EXISTING SERVICES ON & ADJACENT TO THE SITE TO BE VERIFIED ON SITE BEFORE COMMENCEMENT OF ANY WORK. CONFIRM EXISTING LOCATION OF SERVICES WITH "DIAL BEFORE YOU DIG".
3. PROVIDE TEMPORARY FENCING AND STAGING FOR SAFETY AND SECURITY. PROVIDE LOCKABLE GATES FOR THE FULL DURATION OF CONSTRUCTION WORK UNTIL HAND OVER. FENCE SPECIFICATION TO BE IN-ACCORDANCE WITH COUNCIL AND WH&S STANDARDS. PROVIDE SIGNAGE TO COMPLY WITH COUNCIL REQUIREMENTS.
4. DEMOLISH AND REMOVE FROM SITE STRUCTURES AS NOTED, MATERIALS ON SITE, INCLUDING ALL BUILDING STRUCTURES UNDERGROUND AND ANY UNDERGROUND INSPECTION AND PITS AND THEIR ASSOCIATED SERVICES LINES. MAKE SAFE ALL SERVICES.
5. ALLOW FOR ALL REMOVAL OF ALL ASBESTOS AND ANY HAZARDOUS MATERIALS ON SITE. DISPOSE HAZARDOUS MATERIAL IN ACCORDANCE WITH EPA AND LOCAL COUNCIL'S REQUIREMENT. PAY FOR FEES ASSOCIATED WITH REMOVAL & DISPOSAL OF WASTE.
6. DEMOLISH & REMOVE FENCES AS NOTED BUT NOT LIMITED TO: WATER TANKS, SEPTIC TANKS, CLOTHES LINES, BBQ & ASSOCIATED AREAS, LANDSCAPING, DECKS, STAIRS, ANTENNAS, PONDS & ASSOCIATED SERVICES & EQUIPMENT.
7. TERMINATE, CAP OFF OR DIVERT OF ALL EXISTING SERVICES WHERE SO REQUIRED AND/OR ARE NECESSARY TO CARRY OUT NEW WORKS. PERFORM ALL WORKS IN BEST TRADESMAN-LIKE MANNER AND TO THE SATISFACTION OF RELEVANT AUTHORITIES.
8. ALL EXISTING STORMWATER & SEWERAGE DRAIN CONNECTIONS TO EXISTING MAINS TO BE CAPPED.
9. WHOLE SITE TO BE MADE SECURE BY SUITABLE METAL FENCING/ HOARDINGS TO PREVENT ANY UNAUTHORISED ACCESS. SITE SECURITY AND SAFETY TO BE UNDERTAKEN BY BUILDING CONTRACTOR.
10. REMOVE ALL SPOIL & DEMOLISHED MATERIAL FROM SITE.
11. DISCONNECT ALL EXISTING ON SITE SERVICES TO THE SITE BOUNDARIES CLEAR OF WORKS. MAKE SAFE TO AUTHORITIES REQUIREMENTS.
12. ALL DIMENSIONS SHOWN IN METRES

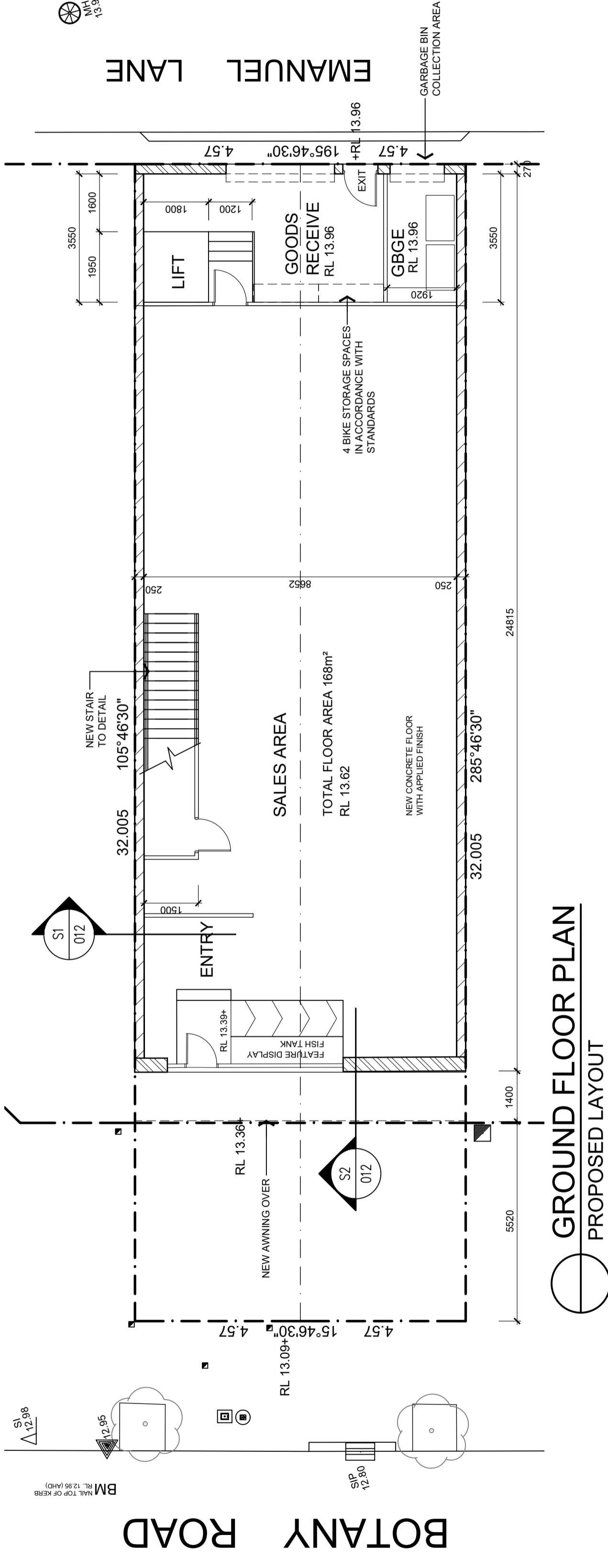
LEGEND:
 --- EXISTING TO BE DEMOLISHED AND REMOVED

NO.	PROJECT	SCALE
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1126	657-657A BOTANY RD, ROSEBERRY	1126
025	DEMOLITION PLAN	025

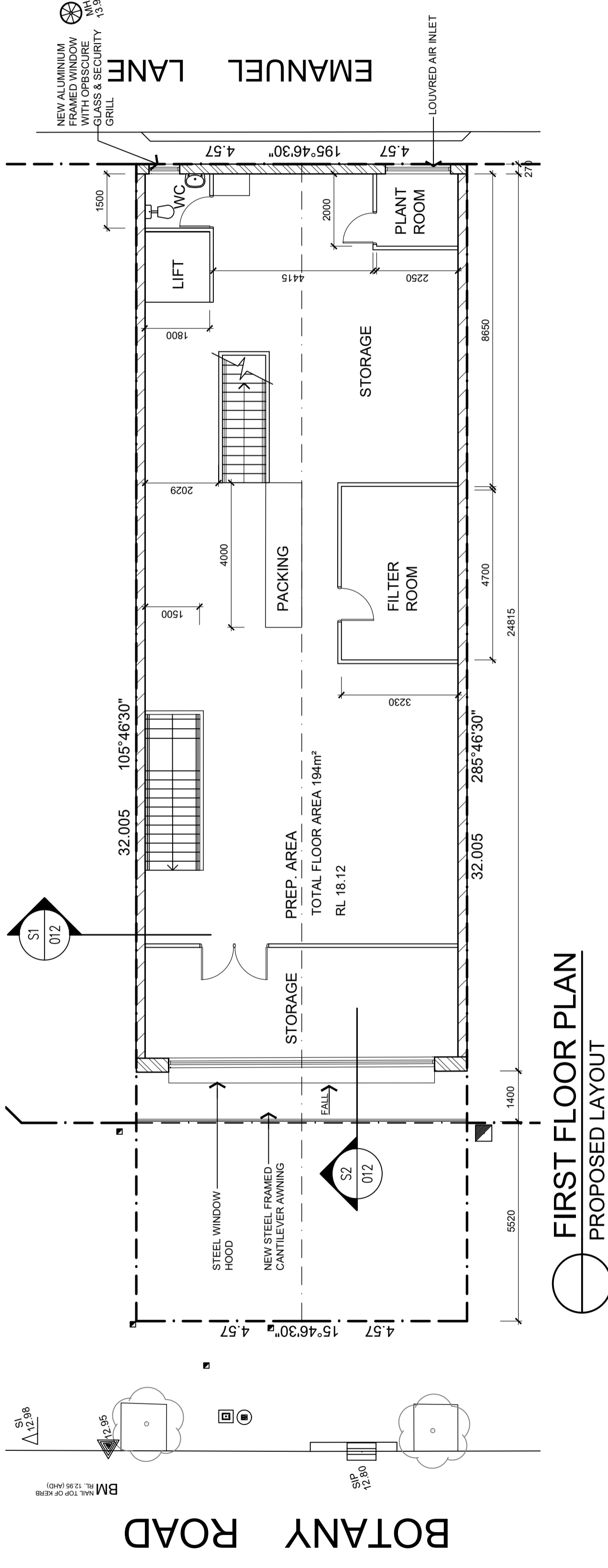
HPPA
 Architects • Project Managers

No.	AMENDMENTS	Drawn Date
A	ISSUED FOR DA	JP 29-11-21
-	-	-
-	-	-
-	-	-
-	-	-

Hely Horne Perry Architects Pty Ltd
 A. B. N. 2 5 1 3 1 4 4 8 7 2 9
 Email: mail@hpa.com.au Telephone (02) 9929 2800
 Nominated Architect: John Perry Reg. No. 8846



GROUND FLOOR PLAN
PROPOSED LAYOUT



FIRST FLOOR PLAN
PROPOSED LAYOUT

No.	AMENDMENTS	Drawn Date
A	ISSUED FOR DA	CA 05-11-21
B	LEVEL AND MINOR INTERNAL CHANGES	- JP - 29-06-22
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-	-	-
-	-	-



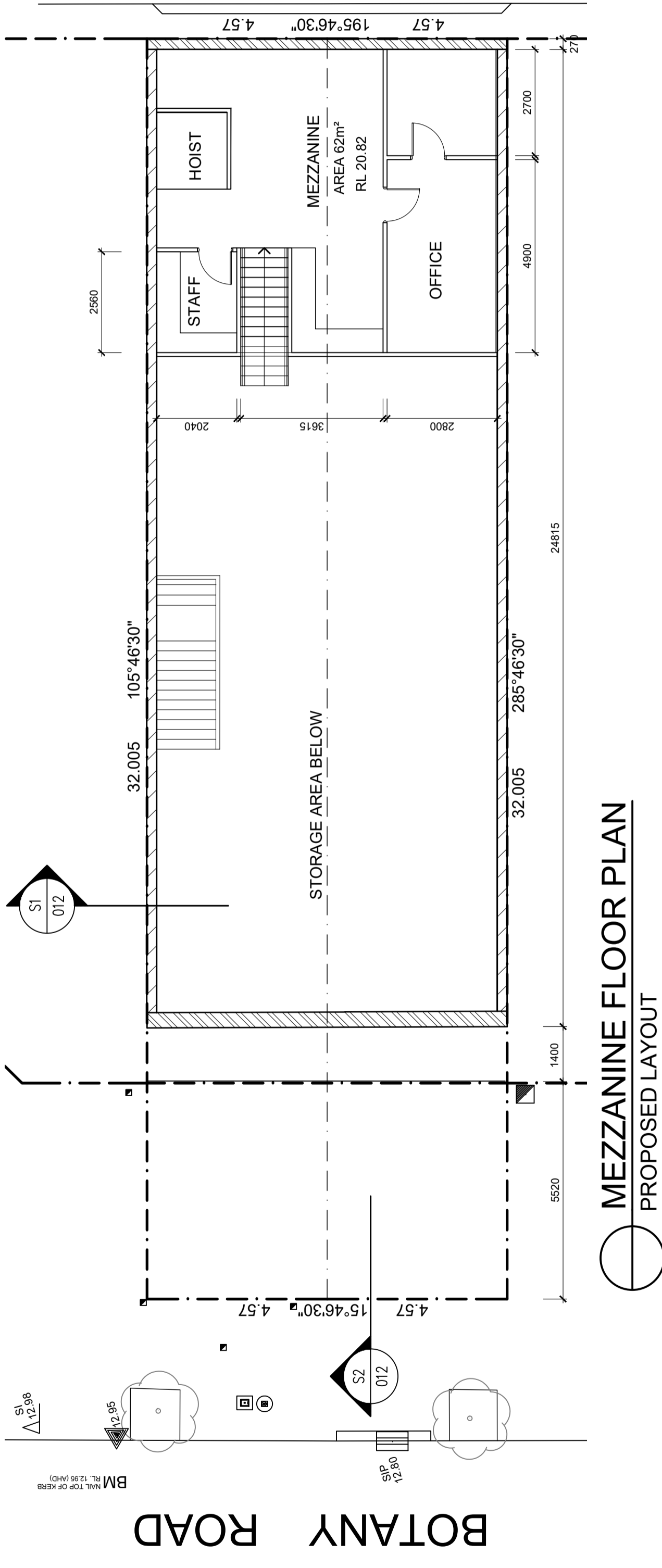
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657-657A BOTANY RD, ROSEBERRY

DRAWING
GROUND & FIRST FLOOR
PROPOSED PLANS

DATE OCT 21 DRAWN CA REVISION B

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Hely Horne Perry Architects Pty Ltd
A. B. N. 2 5 1 3 1 4 4 8 7 2 9
Email: mail@hpa.com.au Telephone (02) 9929 2800
Nominated Architect: John Perry Reg. No. 8846



MEZZANINE FLOOR PLAN
PROPOSED LAYOUT

BOTANY ROAD
EMANUEL LANE



No.	AMENDMENTS	Drawn Date
A	ISSUED FOR DA	CA 05-11-21
B	MEZZANINE LEVEL AND PLAN MODIFIED	- JP - 26-06-22
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-	-	-
-	-	-

HPA
Architects • Project Managers

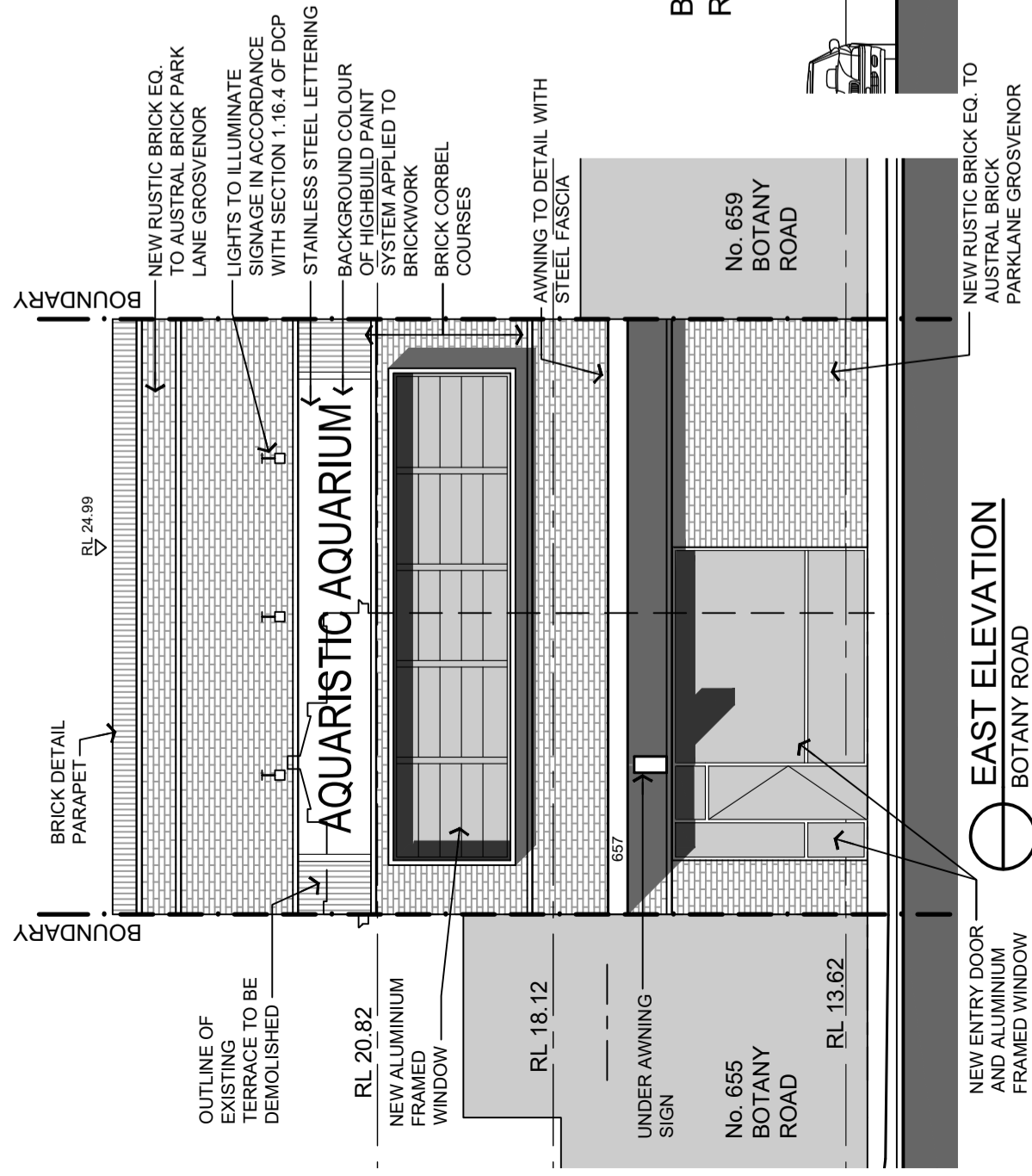
PROJECT
AQUARISTIC
657-657A BOTANY RD, ROSEBERRY

DRAWING
MEZZANINE FLOOR
PROPOSED PLAN

DATE OCT 21 DRAWN CA REVISION B

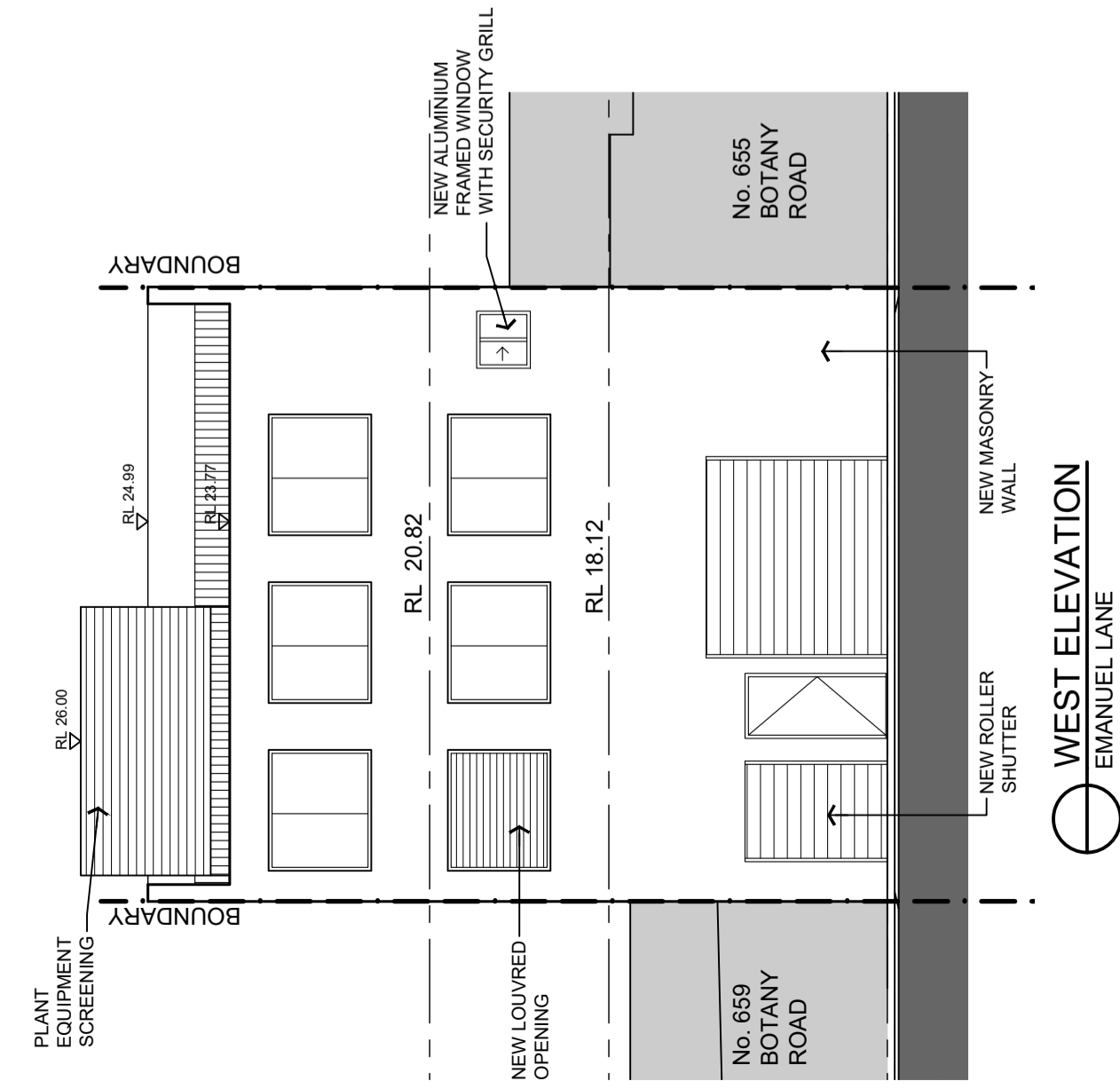
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Hely Horne Perry Architects Pty Ltd
A. B. N. 2 5 1 3 1 4 4 8 7 2 9
Email: mail@hpa.com.au Telephone (02) 9929 2800
Nominated Architect: John Perry Reg. No. 8846

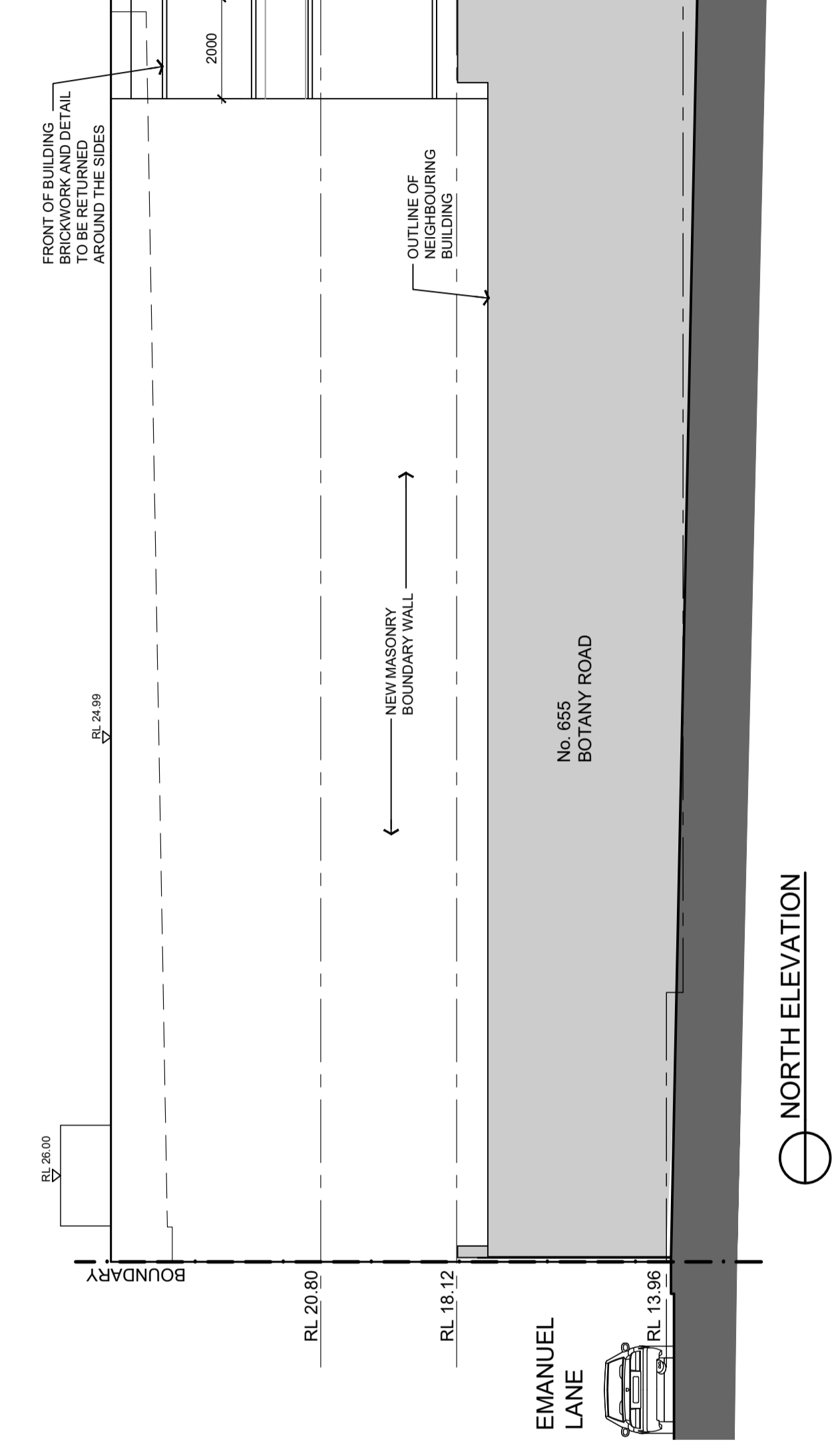


EAST ELEVATION
BOTANY ROAD

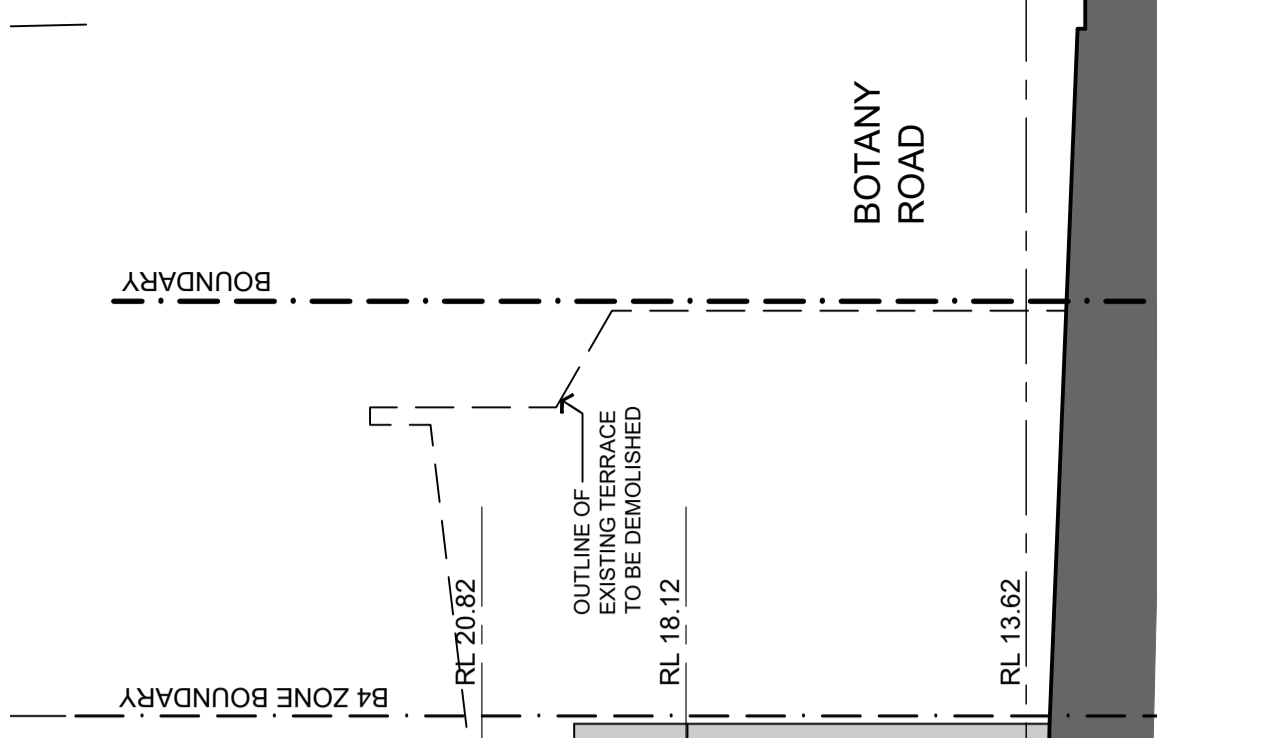
SOUTH ELEVATION



WEST ELEVATION
EMANUEL LANE



NORTH ELEVATION



LEGEND

ERL	EXISTING RELATIVE LEVEL
RL	NEW RELATIVE LEVEL

No. A MENDMENTS

No.	ISSUED FOR	DATE	Drawn Date
A	ISSUED FOR DA	CA	05-11-21
B	ELEVATIONS REVISED	- JP -	29-06-22
C	FRONT ELEVATION UPDATED	GG	22-07-22
D	PLANT SCREEN RL ADDED	- JP -	15-08-22

HHPA
Architects • Project Managers

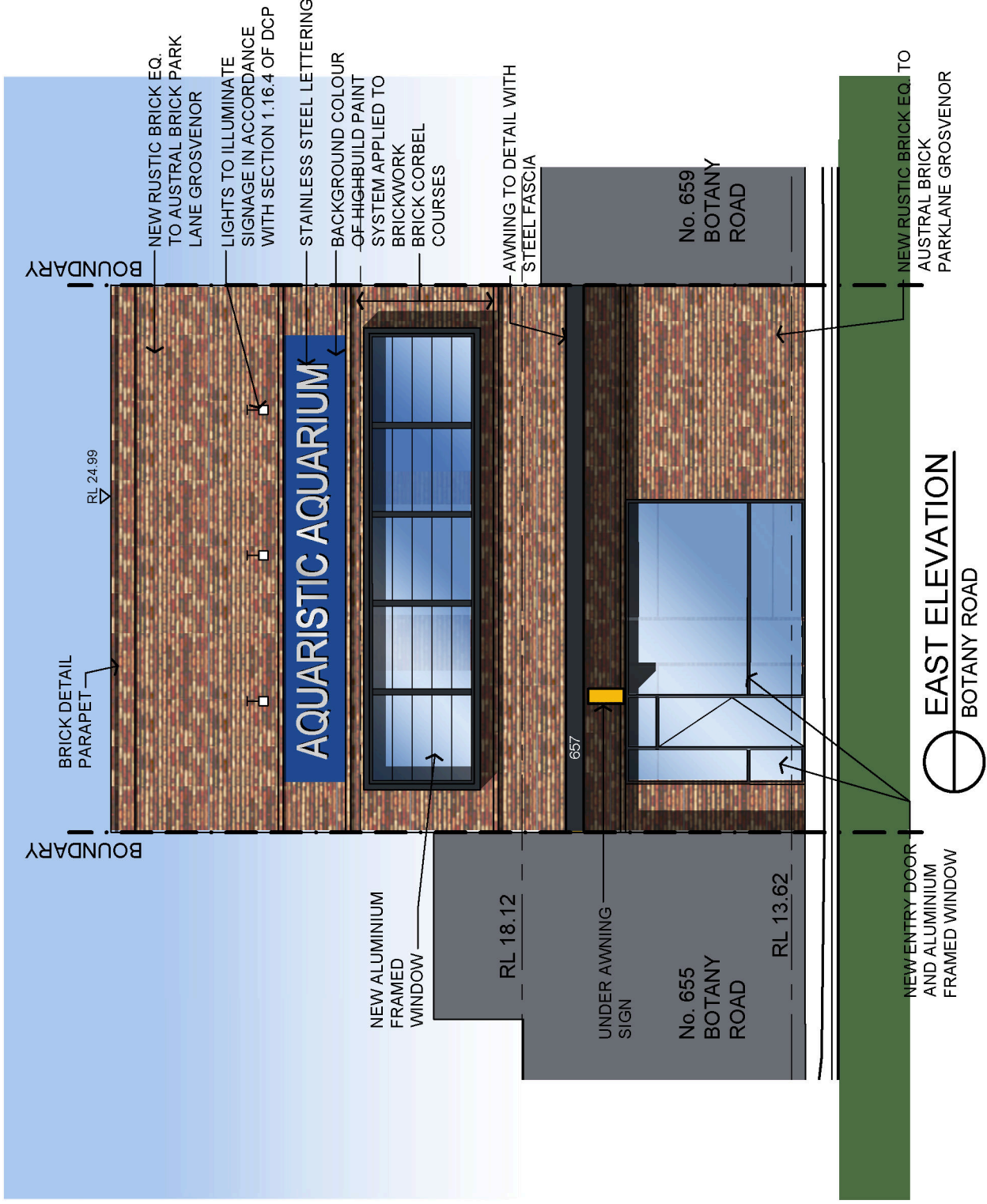
PROJECT
AQUARISTIC
657-657A BOTANY RD, ROSEBERRY

DRAWING
ELEVATIONS

DATE JUN 21 DRAWN CA REVISION D

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Hely Horne Perry Architects Pty Ltd
A. B. N. 2 5 1 3 1 4 4 8 7 2 9
Email: mail@hpa.com.au Telephone (02) 9929 2800
Nominated Architect: John Perry Reg. No. 8846



BOUNDARY

BRICK DETAIL PARAPET

RL 24.99

NEW RUSTIC BRICK EQ. TO AUSTRAL BRICK PARK LANE GROSVENOR

LIGHTS TO ILLUMINATE SIGNAGE IN ACCORDANCE WITH SECTION 1.16.4 OF DCP

AQUARISTIC

STAINLESS STEEL LETTERING

BACKGROUND COLOUR OF HIGHBUILD PAINT SYSTEM APPLIED TO BRICKWORK

BRICK CORBEL COURSES

NEW ALUMINIUM FRAMED WINDOW

RL 18.12

UNDER AWNING SIGN

657

No. 655 BOTANY ROAD

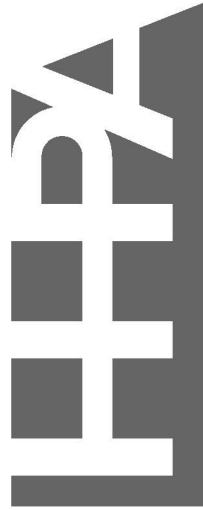
No. 659 BOTANY ROAD

AWNING TO DETAIL WITH STEEL FASCIA

NEW ENTRY DOOR AND ALUMINIUM FRAMED WINDOW

EAST ELEVATION BOTANY ROAD

NEW RUSTIC BRICK EQ. TO AUSTRAL BRICK PARKLANE GROSVENOR



Architects • Project Managers

PROJECT

AQUARISTIC

DRAWING

ELEVATION

SCALE

1:100

PROJECT No.

1126

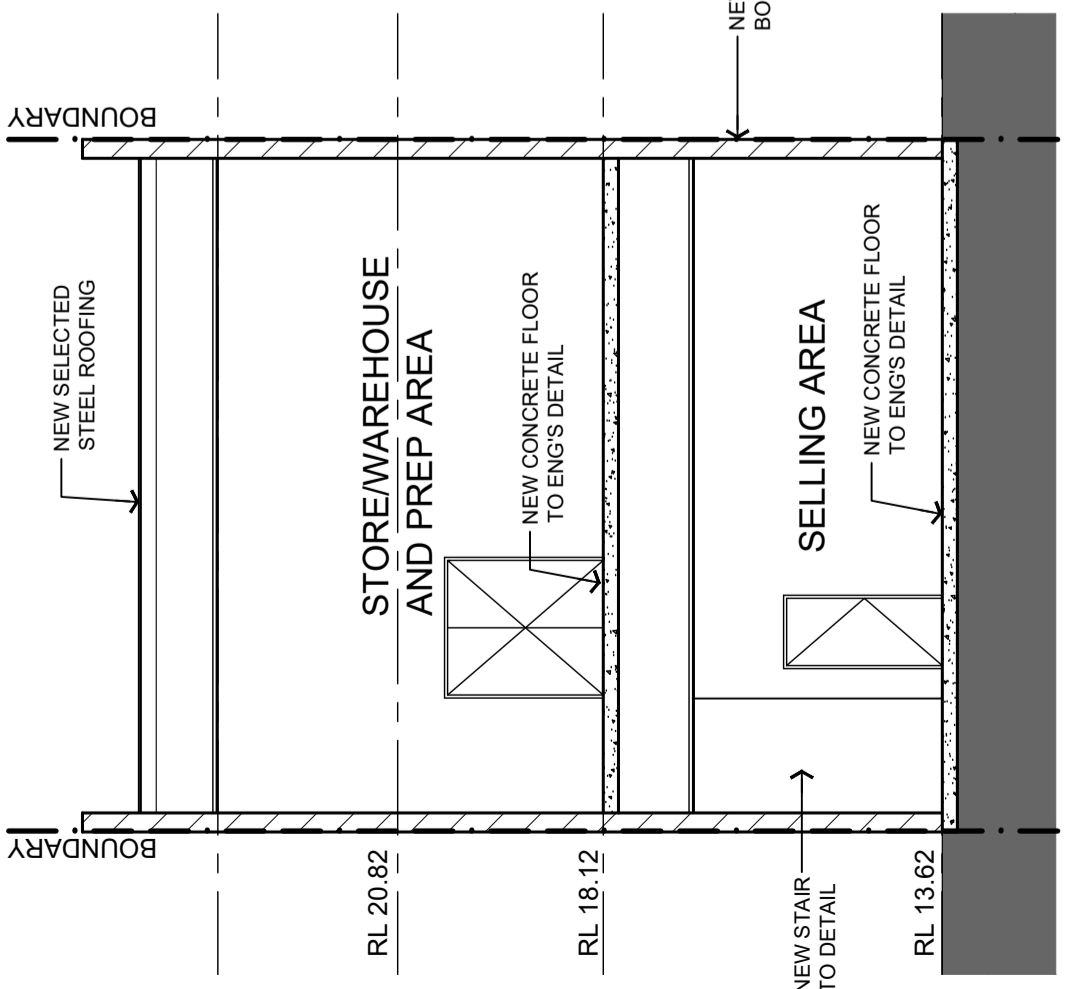
DRAWING No.

Hely Horne Perry Architects Pty Ltd

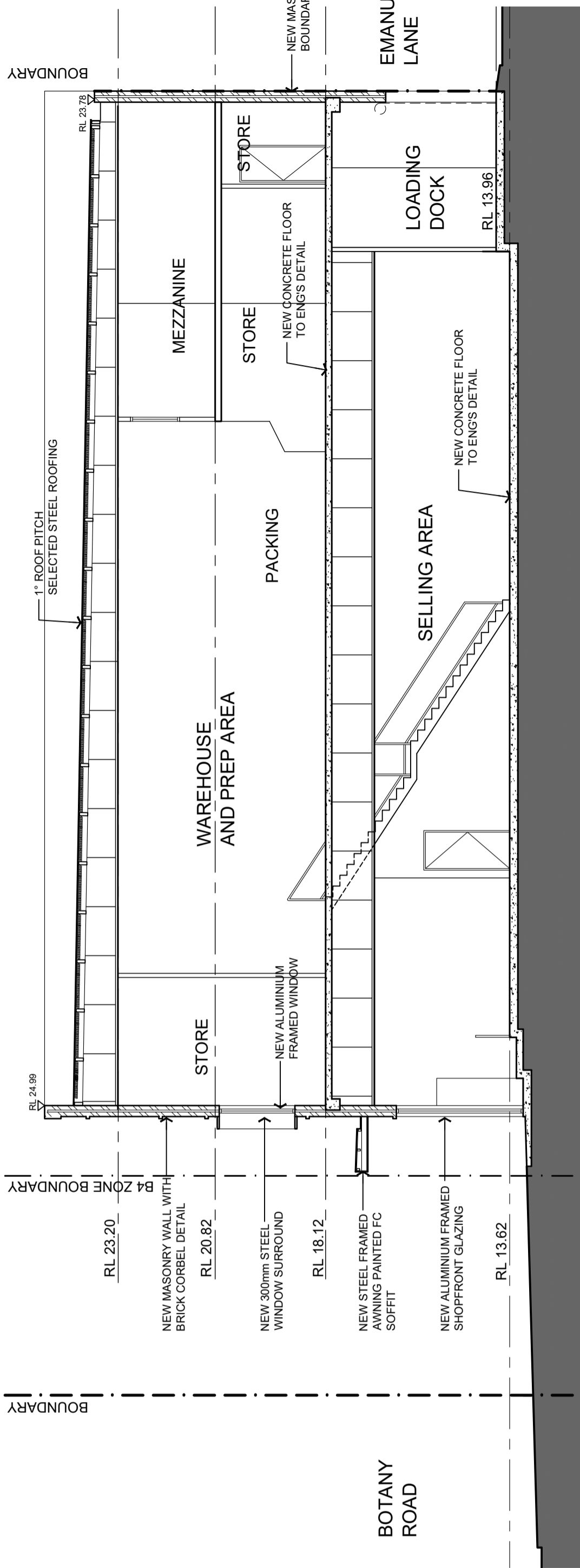
41 Thomas Street, McMahons Point 2060
A.B.N. 25 131 448 729
 Email: mail@hhpa.com.au
 Telephone (02) 9929 2800
John Perry Reg. No.8846

DATE: MAR 22

SHEET SIZE A4



S1 SECTION



S2 SECTION

LEGEND
 ERL EXISTING RELATIVE LEVEL
 RL NEW RELATIVE LEVEL

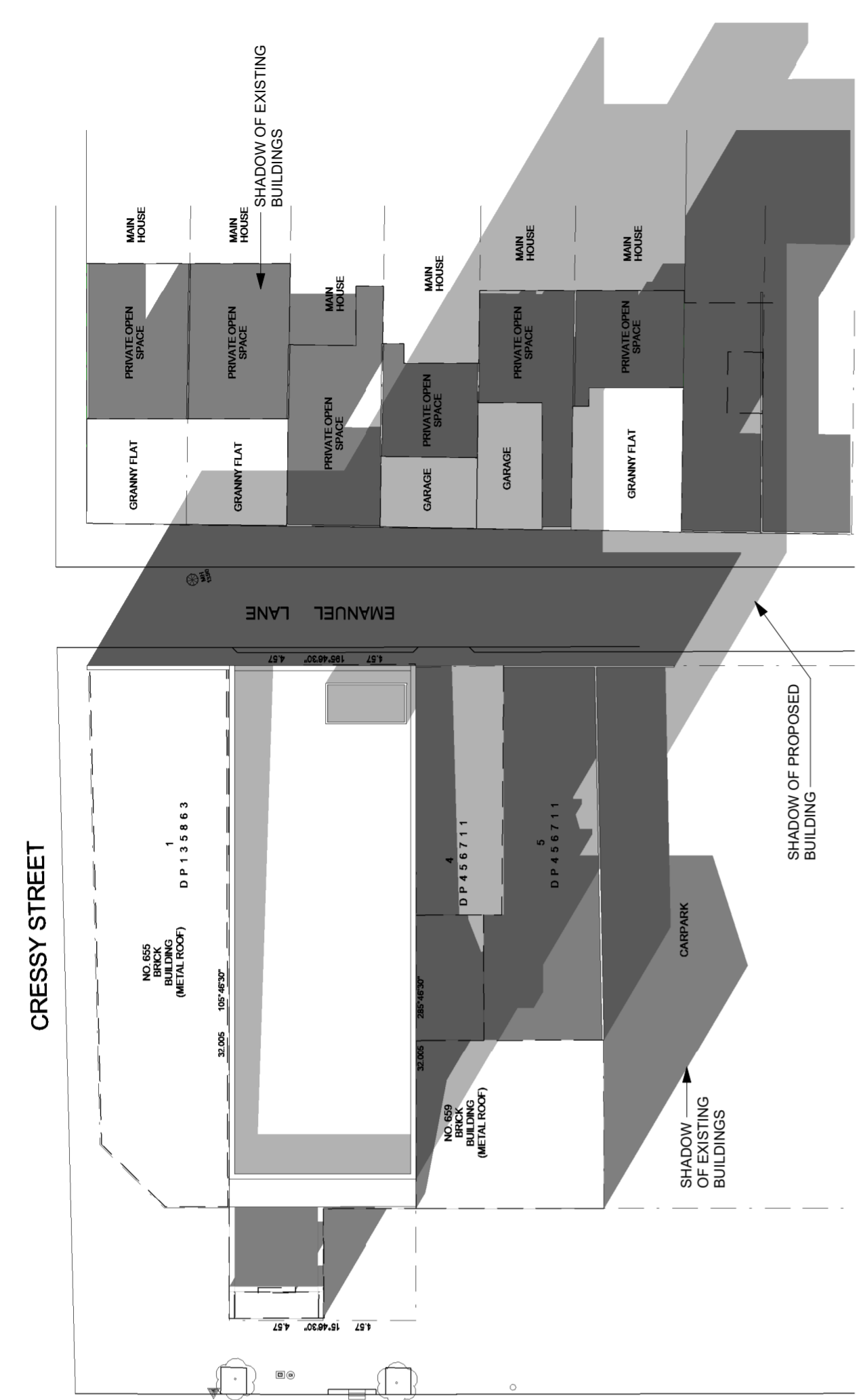
No.	AMENDMENTS	Drawn Date
A	ISSUED FOR DA	CA 05-11-21
B	LEVELS ADJUSTED	- JP - 29-06-22
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PROJECT
 AQUARISTIC
 657-657A BOTANY RD, ROSEBERRY
DRAWING
SECTIONS
 DATE OCT 21 DRAWN CA REVISION B

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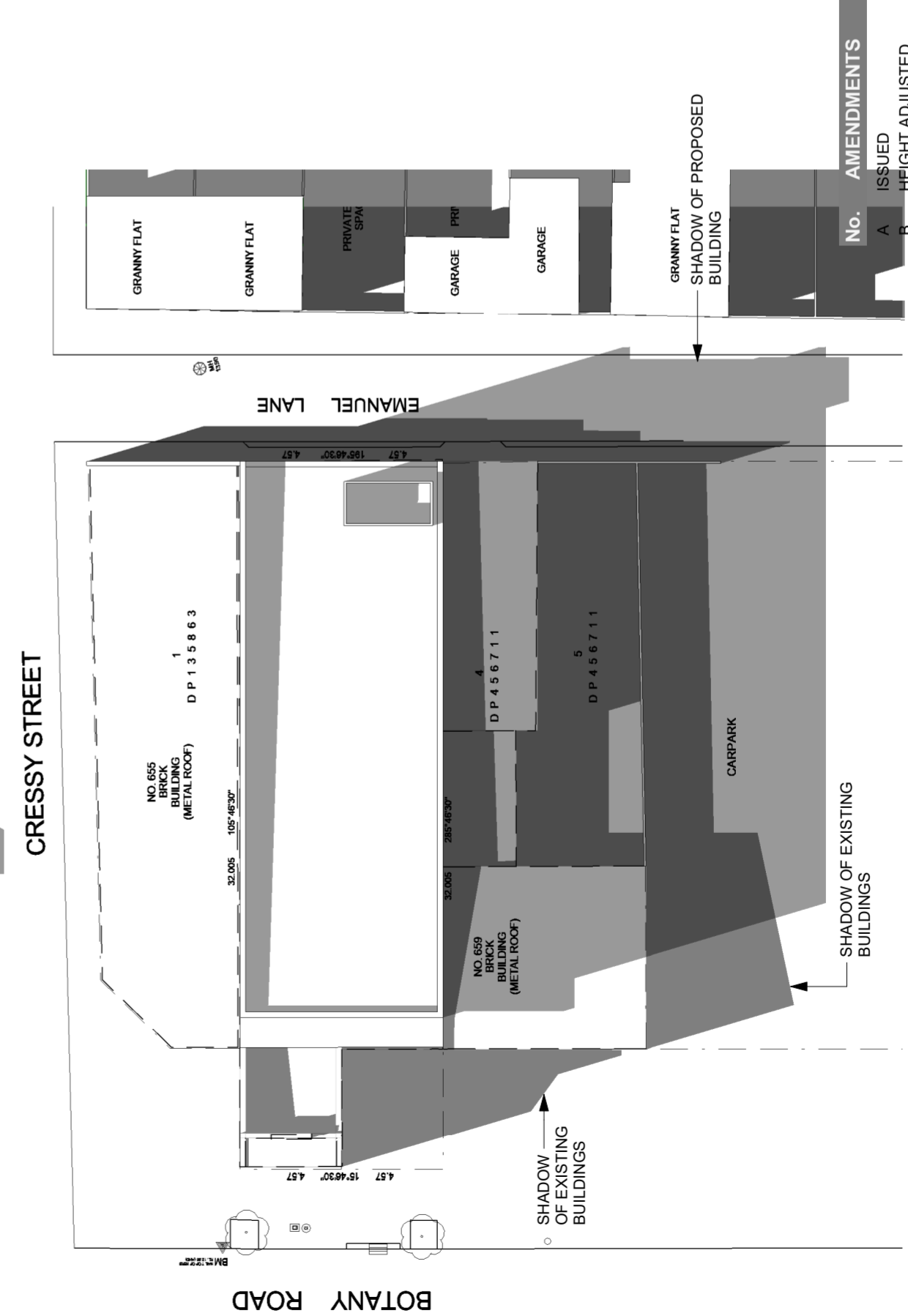
Hely Horne Perry Architects Pty Ltd
 A. B. N. 2 5 1 3 1 4 4 8 7 2 9
 Email: mail@hpa.com.au Telephone (02) 9929 2800
 Nominated Architect: John Perry Reg. No. 8846



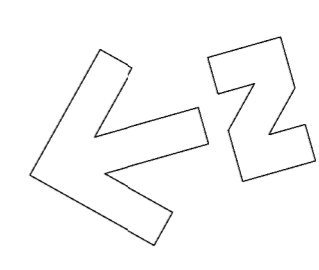
3 Winter 3pm
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1 Winter 9am
1 : 250



2 Winter 12pm
1 : 250



Hely Horne Perry Architects Pty Ltd
A. B. N. 25 131 448 729
Email: mail@hhpa.com.au Phone: (02) 9929 2800
Nominated Architect: John Perry Reg. No: 8846

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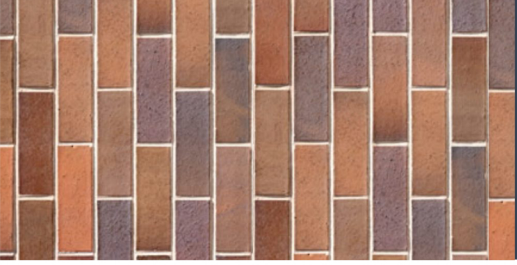
PROJECT: AQUARISTIC
657-657A BOTANY ROAD, ROSEBERRY
DRAWING: SHADOW DIAGRAMS

HHPA
Architects • Project Managers
DATE: NOV/21 DRAWN: CA ISSUE: C

No.	AMENDMENTS	DRAWN DATE
A	ISSUED	CA 05-11-21
B	HEIGHT ADJUSTED	- GG - 27-07-22
C	DETAIL ADDED	JP 15-08-22
-	-	-
-	-	-



ROOF
COLORBOND
SHALE GREY



FRONT FACADE WALL
BRICK EQ. TO
AUSTRAL
PARK LANE
GROSVENOR



AWNING FASCIA
AND WINDOW
SURROUND EQ. TO
COLORBOND MONUMENT



ALUMINIUM
WINDOW FRAMES
POWDERCOAT
BLACK



SIGNAGE DETAILS
EQ. TO DULUX
GOLDEN MARGUERITE
S15H8



BUILDING SIGN
STAINLESS STEEL
LETTERING

657-657A Botany Rd, Roseberry

EXTERNAL COLOURS SAMPLE BOARD





AQUARISTIC AQUARIUM

657

AQUARISTIC



Botany Rd

Cressy St

655

655

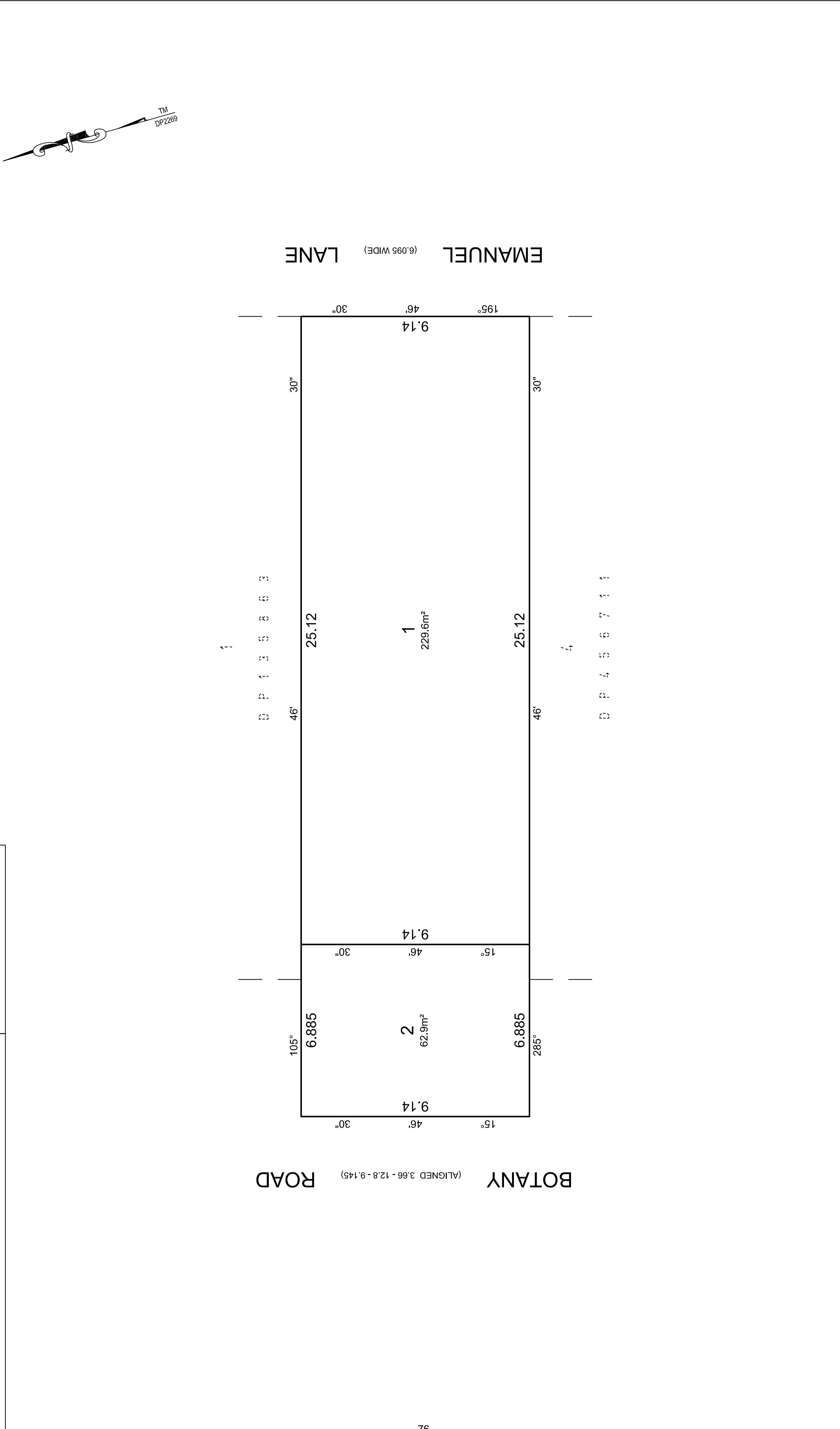


AQUARISTIC COMMERCIAL DEVELOPMENT

Hely Horne Perry Architects

DRAFT SUBDIVISION PLAN PREPARED FROM ARCHITECTURAL PLANS BY HHP ARCHITECTS, JOB No: 1126, ISSUE: A, DATED: 29-11-21 AND PLAN OF PROPOSED ALIGNMENT, CROWN PLAN 24-1910

REVISION: 2
DATED: 01-09-2022



IT IS INTENDED TO DEDICATE LOT 2 AS ROAD WIDENING TO THE PUBLIC AS PUBLIC ROAD

SURVEYOR
NAME: JOHN WALTON
DATE OF SURVEY:
REFERENCE: 5770-22DP

PLAN OF:
SUBDIVISION OF LOTS 2-3 OF SECTION 1 IN DP2269

LGA: SYDNEY
LOCALITY: ROSEBERY
Reduction Ratio: 1 : 100
Lengths are in metres

REGISTERED:

DRAFT DP

Attachment C

Public Benefit Offer

APPLICANT'S PUBLIC BENEFIT OFFER IN CONNECTION WITH A DEVELOPMENT APPLICATION

This is an offer by: Aquaristic Pty Ltd

For: New commercial building

At: 657 & 657a Botany Road Rosebery

This offer has been made with the consent of the registered owner(s) of the land.

The general nature and extent of the provision to be made under the offer, the time or times and the manner by which the provision is to be made are as follows:

- land transfer to council

The Tables below provide further details of the material public benefits:

Site Area	242.5	General Scope of Works	Value (excl. GST)
Base FSR / FSA permitted by LEP/DCP	1.5:1 / (364 m²)	Land dedication	\$2,560.00
Amount of additional FSR / FSA sought	0.25:1 / (61 m²)	Developers works	\$4,864.00
Additional FSA rate (incl. GST) :- Retail Use Non-Residential Use	\$200 per 1m²	Monetary contribution	\$4,776.00
			\$.....
Total Value of additional FSR	\$12,200.00	Total Value of Scope of Works	\$12,200.00

It is intended that the benefits under the offer do not include development contribution under section 7.11 of the Environmental Planning and Assessment Act 1979.

It is intended that should development consent be granted, this offer will be consolidated and crystallised into a voluntary Planning Agreement with the Council.

The agreement will comply with the requirements of the Environmental Planning and Assessment Act and Regulations, and contain mechanisms for completion of any works and / or land dedication. The Planning Agreement may be registered with NSW Land Registry Services (LRS).

Name of Applicant **Ignatius Billy Rumoong**

Signature of Applicant

A handwritten signature in black ink, consisting of a large, stylized loop followed by the initials 'IBR' and a small flourish.

.....
Date **4 November 2021**

Name of all Registered Owner **Ignatius Billy Rumoong**

Signature of Registered Owner

A handwritten signature in black ink, identical to the one above, consisting of a large, stylized loop followed by the initials 'IBR' and a small flourish.

.....
(Owners which are companies must indicate consent by signing under seal or as otherwise authorised under Corporations Law.)

Date **4 November 2021**

Attachment D

Draft Voluntary Planning Agreement

Planning agreement

The Council of the City of Sydney ABN 22 636 550 790

and

Pico Alfa Pty Ltd ACN 164 790 292

For 657-657A Botany Road Rosebery

Ref: X087087

CONTENTS

CLAUSE	PAGE
1. INTERPRETATION	1
1.1 Definitions	1
1.2 Rules for interpreting this document.....	6
2. APPLICATION OF THE ACT AND THE REGULATION	7
2.1 Application of this document	7
2.2 Public Benefits to be made by Developer	7
2.3 Application of sections 7.11, 7.12 and 7.24 of the Act	7
2.4 City rights.....	7
2.5 Explanatory note	8
3. OPERATION OF THIS PLANNING AGREEMENT	8
3.1 Commencement	8
4. WARRANTIES	8
4.1 Mutual warranties	8
4.2 Developer warranties	9
5. PUBLIC BENEFITS	9
5.1 Developer to provide Public Benefits	9
5.2 Maintenance of Developer's Works	9
6. COMPLETION.....	10
6.1 Date of Completion	10
6.2 Developer completion notice	10
6.3 Inspection by the City	10
6.4 Non-completion of Public Benefits	11
7. INDEMNITY	12
8. DEFECTS LIABILITY.....	12
8.1 Security for Defects Liability Period	12
8.2 Defect in the Public Benefits	12
9. REGISTRATION.....	13
9.1 Registration of this document	13
9.2 Release of this document	13
10. ENFORCEMENT	13
10.1 Developer to provide Guarantee	13
10.2 Adjustment of Guarantee Amount	14
10.3 Right of City to claim on Guarantee.....	14
10.4 Expenditure by the City	15
10.5 Top-up and return of Guarantee	15
10.6 Compulsory acquisition.....	16
11. DISPUTE RESOLUTION	16
11.1 Application	16
11.2 Negotiation	16
11.3 Not use information	17
11.4 Condition precedent to litigation	17
11.5 Summary or urgent relief.....	17
12. TAXES AND GST	18

12.1	Responsibility for Taxes	18
12.2	GST free supply	18
12.3	Supply subject to GST	18
13.	DEALINGS.....	19
13.1	Dealing by the City	19
13.2	Dealing by the Developer.....	19
13.3	Extinguishment or creation of interests on Transfer Land	20
14.	TERMINATION	20
15.	CONFIDENTIALITY, DISCLOSURES AND PRIVACY.....	20
15.1	Use and disclosure of Confidential Information	20
15.2	Disclosures to personnel and advisers	21
15.3	Disclosures required by law.....	21
15.4	Receiving party's return or destruction of documents	22
15.5	Security and control	22
15.6	Media releases	22
15.7	Privacy	22
16.	NOTICES	22
17.	CHAIN OF RESPONSIBILITY	23
18.	GENERAL	24
18.1	Governing law	24
18.2	Access to information	24
18.3	Liability for expenses.....	24
18.4	Relationship of parties.....	24
18.5	Giving effect to this document.....	25
18.6	Time for doing acts	25
18.7	Severance.....	25
18.8	Preservation of existing rights	25
18.9	No merger	25
18.10	Waiver of rights.....	25
18.11	Operation of this document.....	26
18.12	Operation of indemnities.....	26
18.13	Inconsistency with other documents.....	26
18.14	No fetter.....	26
18.15	Electronic execution	26
1.	PUBLIC BENEFITS - OVERVIEW.....	30
2.	PAYMENT OF MONETARY CONTRIBUTION.....	30
2.1	Payment.....	30
2.2	Indexation	31
2.3	No trust.....	31
3.	TRANSFER LAND.....	31
3.1	Dedication of land – decision.....	31
3.2	Obligations on dedication.....	31
4.	FINAL DESIGN OF THE DEVELOPER'S WORKS	32
4.1	Scope of Developer's Works	32
4.2	Final design of Developer's Works.....	32
4.3	Preparation of and changes to construction design drawings	33
5.	CONSTRUCTION OF DEVELOPER'S WORKS.....	34
5.1	Insurance	34
5.2	Approvals and consents.....	35

5.3	Construction work.....	35
5.4	Inspections by the City.....	35
6.	STANDARDS.....	36
Schedules		
1	Agreement Details	27
2	Requirements under the Act and Regulation (clause 2)	28
3	Public Benefits (clause 5).....	30
Annexures		
	ANNEXURE A	39
	ANNEXURE B	40

THIS PLANNING AGREEMENT is made on

2022.

BETWEEN:

- (1) **The Council of the City of Sydney** ABN 22 636 550 790 of Town Hall House, 456 Kent Street, SYDNEY NSW 2000 (the **City**); and
- (2) **Pico Alfa Pty Ltd** ACN 164 790 292 of 657A Botany Road, ROSEBERY NSW 2018 (the **Developer**).

BACKGROUND

- (A) The Developer is the owner of the Land and intends to undertake the Development on the Land.
- (B) The Developer has offered to enter into this document with the City to provide the Public Benefits on the terms of this document.

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

Act means the *Environmental Planning and Assessment Act 1979 (NSW)*.

Adverse Affectation has the same meaning as in Part 3 of Schedule 3 of the *Conveyancing (Sale of Land) Regulation 2010 (NSW)*.

Attributed Value means the value the City and the Developer agree is to be attributed to each element of the Public Benefits as at the date of this document, as set out in clause 1 of 0 of this document.

Authorisation means:

- (a) an approval, authorisation, consent, declaration, exemption, permit, licence, notarisation or waiver, however it is described, and including any condition attached to it; and
- (b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken,

including any renewal or amendment.

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, Australia.

City's Policies means all policies and procedures relevant to the provision of the Public Benefits, as notified by the City in writing to the Developer.

City's Representative means the person named in Item 3 of Schedule 1 or his/her delegate.

Completion means the point at which the Developer's Works are complete except for minor defects:

- (a) the existence of which do not prevent the Developer's Works being reasonably capable of being used for their intended purpose;
- (b) which the Developer has grounds for not promptly rectifying; and
- (c) rectification of which will not affect the immediate and convenient use of the Developer's Works for their intended purpose.

Completion Notice means a notice issued by the Developer in accordance with clause 6.1.

Confidential Information means:

- (a) information of a party (**disclosing party**) that is:
 - (i) made available by or on behalf of the disclosing party to the other party (**receiving party**), or is otherwise obtained by or on behalf of the receiving party; and
 - (ii) by its nature confidential or the receiving party knows, or ought reasonably to know, is confidential.

Confidential Information may be made available or obtained directly or indirectly, and before, on or after the date of this document.

Confidential Information does not include information that:

- (a) is in or enters the public domain through no fault of the receiving party or any of its officers, employees or agents;
- (b) is or was made available to the receiving party by a person (other than the disclosing party) who is not or was not then under an obligation of confidence to the disclosing party in relation to that information; or
- (c) is or was developed by the receiving party independently of the disclosing party and any of its officers, employees or agents.

Construction Certificate has the same meaning as in the Act.

Contamination has the meaning given to that word in the *Contaminated Land Management Act 1997* (NSW).

Corporations Act means the *Corporations Act 2001* (Cth).

Dealing means selling, transferring, assigning, novating, mortgaging, charging, or encumbering and, where appearing, **Deal** has the same meaning.

Defect means any error, omission, defect, non-conformity, discrepancy, shrinkage, blemish in appearance or other fault in the Public Benefits or any other matter which prevents the Public Benefits from complying with the terms of this document.

Defects Liability Period means the period of 12 months from the date on which the Developer's Works reach Completion.

Developer's Representative means the person named in Item 4 of Schedule 1 or his/her delegate.

Developer's Works means those parts of the Public Benefit described as "Developer's Works" in clause 1 of Schedule 3, to be delivered by the Developer in accordance with this document.

Development means the development of the Land by the Developer described at Item 2 of Schedule 1.

Development Application means the development application identified in Item 5 of Schedule 1 and includes all plans, reports models, photomontages, material boards (as amended supplemented) submitted to the consent authority before the determination of that Development Application.

Development Consent means the consent granted to the Development Application for the Development and includes all modifications made under section 4.55 of the Act.

Dispute means any dispute or difference between the parties arising out of, relating to or in connection with this document, including any dispute or difference as to the formation, validity, existence or termination of this document.

Environmental Laws means all laws and legislation relating to environmental protection, building, planning, health, safety or work health and safety matters and includes the following:

- (a) the *Work Health and Safety Act 2011 (NSW)*;
- (b) the *Protection of the Environment Operations Act 1997 (NSW)*; and
- (c) the *Contaminated Land Management Act 1997 (NSW)*.

Government Agency means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law.

Gross Floor Area has the meaning given to that term in the *Sydney Local Environment Plan* in effect at the date of this document.

GST means the same as in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Guarantee means a bank guarantee or documentary performance bond for the Guarantee Amount which must:

- (a) be denominated in Australian dollars;
- (b) be an unconditional undertaking;
- (c) be signed and issued by a bank licensed to carry on business in Australia, an Australian Prudential Regulation Authority (APRA) regulated authorised deposit taking institution or an insurer authorised by APRA to conduct new or renewal insurance business in Australia having at all times an investment grade security rating from an industry recognised rating agency of at least:
 - (i) BBB + (Standard & Poors and Fitch);
 - (ii) Baa 1 (Moody's); or
 - (iii) Bbb (Bests);
- (d) be issued on behalf of the Developer;
- (e) have no expiry or end date;
- (f) state the beneficiary as the City;
- (g) be irrevocable;
- (h) state the Guarantee Amount as the minimum amount required by this document to be lodged as security;
- (i) state the purpose of the security as required in accordance with this document; and
- (j) be on such other terms approved by the City.

Guarantee Amount(s) means the total amount listed in Item 6 of Schedule 1 of this document.

Guarantee Amount(s) Due Date means the date or milestone by which the Developer must provide the Guarantee Amount to the City, set out at Item 7 of Schedule 1.

Index Number means the Consumer Price Index (Sydney all groups) published by the Australian Bureau of Statistics from time to time.

Insolvency Event means:

- (a) having a controller, receiver, manager, administrator, provisional liquidator, liquidator or analogous person appointed;
- (b) an application being made to a court for an order to appoint a controller, provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property

- (c) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (d) an application being made to a court for an order for its winding up;
- (e) an order being made, or the person passing a resolution, for its winding up;
- (f) the person:
 - (i) suspending payment of its debts, ceasing (or threatening to cease) to carry on all or a material part of its business, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or
 - (ii) being unable to pay its debts or otherwise insolvent;
- (g) the person taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- (h) a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; or
- (i) any analogous event under the laws of any applicable jurisdiction,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved by the other party.

Land means the land described in Item 1 of Schedule 1 of this document.

Laws means all applicable laws, regulations, industry codes and standards, including all Environmental Laws.

Monetary Contribution means that part of the Public Benefits described as "Monetary Contribution" in clause 1 of Schedule 3 to be paid by the Developer to the City in accordance with this document.

Occupation Certificate has the same meaning as in the Act.

Personal Information means:

- (a) personal information within the meaning of the *Privacy and Personal Information Protection Act 1998* (NSW);
- (b) health information within the meaning of the *Health Records and Information Privacy Act 2002* (NSW); and
- (c) any information which does not fall within the scope of paragraphs (a) and (b) above, but is personal information within the meaning of the *Privacy Act 1988* (Cth).

Personnel means the Developer's officers, employees, agents, contractors or subcontractors.

Privacy Laws means the *Privacy Act 1988* (Cth), the *Privacy and Personal Information Protection Act 1998* (NSW), the *Health Records and Information*

Privacy Act 2002 (NSW); the Spam Act 2003 (Cth), the Do Not Call Register Act 2006 (Cth) and any other applicable legislation, regulations, guidelines, codes and the City's Policies relating to the handling of Personal Information.

Public Benefits means the provision of benefits to the community by the Developer in the form and at the times specified in 0.

Quantity Surveyor means a qualified independent and practising quantity surveyor with at least five years' experience in the assessment of building and construction costs.

Quantity Surveyor's Assessment means the assessment by the Quantity Surveyor of the cost to deliver the Developer's Works.

Regulation means the *Environmental Planning and Assessment Regulation 2000 (NSW)*.

Standards means the policies, procedures and standards for carrying out the Developer's Works, listed non-exhaustively at clause 6 of 0.

Subdivision of Land has the same meaning as in the Act.

Tax means a tax, levy, duty, rate, charge, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge.

Transfer Land means land forming part of the Public Benefit that is to be dedicated to the City in accordance with 0 of this document.

1.2 **Rules for interpreting this document**

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
- (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.

- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) A reference to **including** means "including, without limitation".
- (g) A reference to **dollars** or **\$** is to an amount in Australian currency.
- (h) A reference to **this document** includes the agreement recorded by this document.
- (i) Words defined in the GST Act have the same meaning in clauses about GST.
- (j) This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself.

2. **APPLICATION OF THE ACT AND THE REGULATION**

2.1 **Application of this document**

This document is a planning agreement within the meaning of section 7.4 of the Act and applies to:

- (a) the Land; and
- (b) the Development.

2.2 **Public Benefits to be made by Developer**

Clause 5 and 0 set out the details of the:

- (a) Public Benefits to be delivered by the Developer;
- (b) time or times by which the Developer must deliver the Public Benefits; and
- (c) manner in which the Developer must deliver the Public Benefits.

2.3 **Application of sections 7.11, 7.12 and 7.24 of the Act**

- (a) The application of sections 7.11, 7.12 and 7.24 of the Act are excluded to the extent set out in Items 5 and 6 of Schedule 2 to this document.

2.4 **City rights**

This document does not impose an obligation on the City to:

- (a) grant Development Consent for the Development; or

- (b) exercise any function under the Act in relation to a change to an environmental planning instrument, including the making or revocation of an environmental planning instrument.

2.5 **Explanatory note**

The explanatory note prepared in accordance with clause 25E of the Regulation must not be used to assist in construing this document.

3. **OPERATION OF THIS PLANNING AGREEMENT**

3.1 **Commencement**

This document will commence on the date of execution of this document by all parties to this document.

4. **WARRANTIES**

4.1 **Mutual warranties**

Each party represents and warrants that:

- (a) **(power)** it has full legal capacity and power to enter into this document and to carry out the transactions that it contemplates;
- (b) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this document and to carry out the transactions contemplated;
- (c) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this document and to carry out the transactions that it contemplates;
 - (ii) ensure that this document is legal, valid, binding and admissible in evidence; or
 - (iii) enable it to properly carry on its business as it is now being conducted, and it is complying with any conditions to which any of these Authorisations is subject;
- (d) **(documents effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally), subject to any necessary stamping or registration;
- (e) **(solvency)** there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable; and
- (f) **(no controller)** no controller is currently appointed in relation to any of its property, or any property of any of its subsidiaries.

4.2 **Developer warranties**

- (a) The Developer warrants to the City that, at the date of this document:
 - (i) it is the registered proprietor of the Land;
 - (ii) it is legally entitled to obtain all consents and approvals that are required by this document and do all things necessary to give effect to this document;
 - (iii) all work performed by the Developer and the Personnel under this document will be performed with due care and skill and to a standard which is equal to or better than that which a well experienced person in the industry would expect to be provided by an organisation of the Developer's size and experience; and
 - (iv) it is not aware of any matter which may materially affect the Developer's ability to perform its obligations under this document.
- (b) The Developer warrants to the City that, prior to commencing delivery of the Public Benefits it will have obtained all Authorisations and insurances required under any Law to carry out its obligations under this document.

5. **PUBLIC BENEFITS**

5.1 **Developer to provide Public Benefits**

The Developer must, at its cost and risk, provide the Public Benefits to the City in accordance with this document.

5.2 **Maintenance of Developer's Works**

- (a) In this clause 5.2, the following definitions apply:

Maintain means works to bring an item to a state of reasonable condition and in accordance with relevant standards applicable at the time of construction of the item, but does not include removing graffiti or repairing any item damaged as a consequence of vandalism. **Maintained** and **Maintenance** have corresponding meanings.

Maintenance Period is the period of 12 months from the date on which the Developer's Works reach Completion.

Maintenance Schedule means the schedule of proposed Maintenance works as listed in Annexure A under the heading 'Maintenance of Developer's Works'.

- (b) The Developer's Works must be Maintained by the Developer during the Maintenance Period in accordance with the Maintenance Schedule.
- (c) The Developer must follow the City's Policies and obtain and comply with all Authorisations necessary to carry out the Maintenance required under this clause 5.2.
- (d) If, during the Maintenance Period:

- (i) the Developer fails to materially comply with the approved Maintenance Schedule and does not rectify that failure within 15 Business Days of being notified of that failure by the City or within a reasonable period of time agreed between the parties; or
- (ii) the City becomes aware of an item of the Developer's Works that requires urgent Maintenance to ensure public safety or avoid damage or loss to the public or property,

the City may, by itself, its employees, contractors or agents, carry out the required works and may recover as a debt due and owing to the City, any difference between the amount of the Guarantee and the costs incurred by the City in carrying out the Maintenance work.

6. **COMPLETION**

6.1 **Date of Completion**

The Developer must ensure that the Developer's Works reach Completion on or before the date or milestone referred to in clause 1 of 0 of this document.

6.2 **Developer completion notice**

When, in the reasonable opinion of the Developer, the Developer's Works have reached Completion, the Developer must notify the City's Representative in writing and must include in that notice:

- (a) a statement from the person with direct responsibility and supervision of that work that in their opinion the Developer's Works have reached Completion;
- (b) copies of any warranties, guarantees, maintenance information or other material reasonably required for the City to assume responsibility for the Developer's Works; and
- (c) at least three sets of the "as built" drawings of the Developer's Works, including one set in electronic format,

(Completion Notice). For the avoidance of doubt, the Developer can issue separate Completion Notices at separate times for different elements of the Developer's Works, however the Developer must ensure that Completion is achieved for the Developer's Works before the due date specified in Item 1 of 0.

6.3 **Inspection by the City**

- (a) The City's Representative must inspect the Developer's Works within 5 Business Days of the date that the Completion Notice is received by the City. The City's Representative may refuse to complete the inspection until the Completion Notice has been issued with all required documentation attached in accordance with clause 6.2. Within 10 Business Days of the date of the inspection by the City's Representative, the City must by written notice to the Developer:
 - (i) state that Completion has been achieved;

- (ii) state that Completion has not been achieved and, if so, identify the Defects, errors or omissions which, in the opinion of the City's Representative, prevent Completion; or
 - (iii) issue a notice under clause 6.4(a).
- (b) Nothing in this clause 6.3, or any notice issued under this clause 6.3, will:
- (i) reduce or waive in any manner the Developer's responsibility to:
 - (A) deliver the Developer's Works in accordance with this document; or
 - (B) the Developer's responsibility to correct Defects, errors or omissions, whether or not these are identified by the City; or
 - (ii) create any liability for the City in relation to any defective aspect of the Developer's Works.

6.4 **Non-completion of Public Benefits**

- (a) If the Developer makes a request by notice in writing not to complete the Public Benefits (or any part of the Public Benefits):
- (i) the City may permit the Developer not to complete the Public Benefits (or any part of the Public Benefits) by issuing a notice in writing to the Developer stating that completion of the items identified in that notice is not required to fulfil the Developer's obligations under this document; and
 - (ii) the City may make a claim on the Guarantee in such amount as the City considers necessary to complete the portion of Public Benefit not being delivered by the Developer.
- (b) If the Developer fails to complete the whole of the Public Benefits in the form and to the standards required under the Development Consent or this document then the City may either:
- (i) complete the Public Benefits itself, including by exercising its right to compulsorily acquire the Transfer Land in accordance with clause 10.6 of this document; or
 - (ii) modify the Public Benefits to reasonably achieve the objectives identified in the Development Consent and this document,
- and may recover all costs of and reasonably incidental to that work from the Developer. The City can claim on the Guarantee in order to exercise this right, in which case the provisions of clause 10 will apply. To the extent that the City's costs exceed the amount of the Guarantee, the City can recover this amount from the Developer as a debt due and owing to the City.
- (c) If the City exercises its rights under this clause 6.4 to complete the Public Benefits, the Developer grants the City a licence for the period necessary for

the City to access the Land to carry out, or procure the carrying out, of the Public Benefits.

7. INDEMNITY

The Developer indemnifies the City against all damage, expense, loss or liability of any nature suffered or incurred by the City arising from any act or omission by the Developer (or any Personnel) in connection with the performance of the Developer's obligations under this document, except where the damage, expense, loss or liability suffered or incurred is caused by, or contributed to by, any wilful or negligent act or omission of the City (or any person engaged by the City).

8. DEFECTS LIABILITY

8.1 Security for Defects Liability Period

Until the expiry of the relevant Defects Liability Period, the City may retain from the Guarantee an amount equal to 10% of the Attributed Value of the Developer's Works as security for the Developer's performance of its obligations under this clause 8. The Developer must make any necessary arrangements to allow the provision of the Guarantee for the Defects Liability Period in accordance with this clause.

8.2 Defect in the Public Benefits

(a) If:

- (i) the Developer is in breach of clause 4.2 of this document; or
- (ii) the City notifies the Developer of a Defect in the Public Benefits within the Defects Liability Period,

then, following written notice from the City, the Developer must promptly correct or replace (at the Developer's expense) the defective elements of the Public Benefits.

(b) If the Developer is unable or unwilling to comply with clause 8.2(a), or fails to rectify the Defect within three months of receiving notice from the City under clause 8.2(a), the City may:

- (i) rectify the Defect itself;
- (ii) make a claim on the Guarantee in accordance with clause 10 for the reasonable costs of the City in rectifying the Defect; and
- (iii) to the extent the costs incurred to rectify the Defect exceeds the Guarantee, recover the reasonable costs from the Developer as a debt due and owing to the City.

(c) If the City requires access to the Land to rectify any Defect, the Developer grants the City and its contractors a licence for such period as is necessary for the City and its contractors to access the Land to carry out, or procure the carrying out, of the rectification works.

9. **REGISTRATION**

9.1 **Registration of this document**

- (a) The Developer:
 - (i) consents to the registration of this document at the NSW Land Registry Services on the certificate of title to the Land;
 - (ii) warrants that it has obtained all consents to the registration of this document on the certificate of title to the Land; and
 - (iii) must within 10 Business Days of a written request from the City do all things necessary to allow the City to register this document on the certificate of title to the Land, including but not limited to:
 - (A) producing any documents or letters of consent required by the Registrar-General of the NSW Land Registry Services; and
 - (B) providing the City with payment for registration, electronic lodgement and requisition fees (where applicable) required for registration of this document at NSW Land Registry Services.
 - (iv) The Developer must act promptly in complying with and assisting to respond to any requisitions raised by the NSW Land Registry Services that relate to registration of this document.

9.2 **Release of this document**

- (a) If the City is satisfied that the Developer has provided all Public Benefits and otherwise complied with this document then the City must promptly do all things reasonably required to remove this document from the certificate of title to the Land.
- (b) The Developer must, within 10 Business Days of a written request from the City, do all things necessary to allow the City to comply with clause 9.2(a), including but not limited to:
 - (A) producing any documents or letters of consent required by the Registrar-General of the NSW Land Registry Services; and
 - (B) providing the City with payment for registration, lodgement and requisition fees (where applicable) required for removal of this document from the certificate of title to the Land by NSW Land Registry Services.

10. **ENFORCEMENT**

10.1 **Developer to provide Guarantee**

The Developer must deliver the Guarantee for the Guarantee Amount to the City by the Guarantee Amount Due Date.

10.2 Adjustment of Guarantee Amount

- (a) Subject to clause 10.2(b), following each anniversary of the date of the Guarantee (the "Adjustment Date") and at any time prior to the expiry of the Defects Liability Period, the Guarantee Amounts are to be adjusted to a revised amount by applying the following formula:

$$\mathbf{RGA} = \mathbf{GA} \times (\mathbf{A/B})$$

where:

RGA is the revised guarantee amount applicable from the relevant Adjustment Date

GA is the Guarantee Amount that is current on the relevant Adjustment Date

A is the Index Number most recently published before the relevant Adjustment Date

B is the Index Number most recently published:

- (i) before the date of the Guarantee for the first Adjustment Date; and
- (ii) before the preceding Adjustment Date for every subsequent Adjustment Date

If after the formula is applied the revised Guarantee Amount will be less than the amount held at the preceding Adjustment Date, the Guarantee Amount will not be adjusted.

- (b) If the Guarantee Amount is adjusted under clause 10.2(a), the Developer is not required to provide the City with a replacement Guarantee for that revised Guarantee Amount until such time as the City notifies the Developer that the City is ready to exchange the then current Guarantee held by the City, following which the City and the Developer must promptly exchange the then current Guarantee held by the City with a replacement Guarantee for that revised Guarantee Amount from the Developer.

10.3 Right of City to claim on Guarantee

- (a) The Developer agrees that the City may make an appropriation from the Guarantee in such amount as the City, acting reasonably, thinks appropriate if:
- (i) the Developer fails to comply with clause 4.2 of 0 of this document (provision of detailed design drawings and detailed costs estimate);
 - (ii) the Developer fails to comply with clause 2 of 0 (payment of Monetary Contribution);
 - (iii) the City allows the Developer not to complete the Public Benefits, or any part of them, in accordance with clause 6.4(a)(ii);
 - (iv) an Insolvency Event occurs in respect of the Developer;

- (v) the Developer fails to deliver the Public Benefits in accordance with clause 6.4(b);
 - (vi) the Developer fails to carry out Maintenance in accordance with clause 5.2 of this document;
 - (vii) the Developer fails to rectify a Defect in accordance with clause 8.2 of this document;
 - (viii) the detailed designs for the Developer's Works are not finalised between the parties within 12 months of the date of issue of a Construction Certificate that approves the construction of any structures above the ground floor of the Development;
 - (ix) the Developer's Works do not reach Completion within 36 months of the date of issue of the first Construction Certificate in respect of the Development (or such later time as agreed by the City in writing); or
 - (x) the Developer fails to maintain the Developer's Works in accordance with clause 5.2 and Annexure A; or
 - (xi) the City incurs any other expense or liability in exercising its rights and powers under this document.
- (b) Any amount of the Guarantee appropriated by the City in accordance with clause 10.3 must be applied only towards:
- (i) the costs and expenses incurred by the City rectifying any default by the Developer under this document; and
 - (ii) carrying out any works required to achieve the Public Benefits.

10.4 **Expenditure by the City**

If the City claims on the Guarantee to Complete the Developer's Works, then the City:

- (a) is not required to expend more money than the Guarantee Amount and may elect not to carry out items of the Developer's Works to ensure that those works can be carried out for an amount equal to or less than the Guarantee Amount; or
- (b) may expend more than the Guarantee Amount. If the City expends more money than the Guarantee Amount then the amount in excess of the Guarantee Amount will be deemed to be a debt due and owing to the City by the Developer.

10.5 **Top-up and return of Guarantee**

- (a) If the City calls upon the Guarantee in accordance with this clause 10 then the Developer must immediately provide to the City a replacement Guarantee to ensure that, at all times until the Guarantee is released in accordance with paragraph (b), the City is in possession of a Guarantee for a face value equivalent to the Guarantee Amount.

- (b) If:
 - (i) the monies secured by the Guarantee have not been expended;
 - (ii) the City has concurred with Completion in accordance with clause 6.3(a)(i) of this document, taking into account any approved non-completion of Public Benefits approved by clause 6.4(a) of this document; and
 - (iii) the City has been provided with the security for the Defects Liability Period in accordance with clause 8.1,

then the City will promptly return the Guarantee to the Developer following the issue of a notice pursuant to clause 6.3(a)(i) of this document.

- (c) If, following expiry of the Defects Liability Period, the City is satisfied that all defects have been rectified in accordance with clause 8 then the City must promptly return to the Developer the portion of the Guarantee retained by the City as security for the Defects Liability Period.

10.6 **Compulsory acquisition**

If the Developer fails to dedicate the Transfer Land to the City in accordance with 0 of this document then the City may compulsorily acquire that land for the amount of \$1.00 in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)*. The City and the Developer agree that:

- (a) this clause 10.6 is an agreement between the Developer and the City for the purposes of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)*;
- (b) in this clause 10.6 the Developer and the City have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition; and
- (c) the Developer must pay the City, promptly on demand, an amount equivalent to all costs incurred by the City in acquiring the whole or any part of the Transfer Land as contemplated by this clause 10.6.

11. **DISPUTE RESOLUTION**

11.1 **Application**

Any Dispute must be determined in accordance with the procedure in this clause 11.

11.2 **Negotiation**

- (a) If any Dispute arises, a party to the Dispute (**Referring Party**) may by giving notice to the other party or parties to the Dispute (**Dispute Notice**) refer the Dispute to the Developer's Representative and the City's Representative for resolution. The Dispute Notice must:
 - (i) be in writing;

- (ii) state that it is given pursuant to this clause 11; and
- (iii) include or be accompanied by reasonable particulars of the Dispute including:
 - (A) a brief description of the circumstances in which the Dispute arose;
 - (B) references to any:
 - (aa) provisions of this document; and
 - (bb) acts or omissions of any person, relevant to the Dispute; and
 - (C) where applicable, the amount in dispute (whether monetary or any other commodity) and if not precisely known, the best estimate available.
- (b) Within 10 Business Days of the Referring Party issuing the Dispute Notice (**Resolution Period**), the Developer's Representative and the City's Representative must meet at least once to attempt to resolve the Dispute.
- (c) The Developer's Representative and the City's Representative may meet more than once to resolve a Dispute. The Developer's Representative and the City's Representative may meet in person, via telephone, videoconference, internet-based instant messaging or any other agreed means of instantaneous communication to effect the meeting.

11.3 **Not use information**

The purpose of any exchange of information or documents or the making of any offer of settlement under this clause 11 is to attempt to settle the Dispute. Neither party may use any information or documents obtained through any dispute resolution process undertaken under this clause 11 for any purpose other than in an attempt to settle the Dispute.

11.4 **Condition precedent to litigation**

Subject to clause 11.5, a party must not commence legal proceedings in respect of a Dispute unless:

- (a) a Dispute Notice has been given; and
- (b) the Resolution Period has expired.

11.5 **Summary or urgent relief**

Nothing in this clause 11 will prevent a party from instituting proceedings to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

12. TAXES AND GST

12.1 Responsibility for Taxes

- (a) The Developer is responsible for any and all Taxes and other like liabilities which may arise under any Commonwealth, State or Territory legislation (as amended from time to time) as a result of or in connection with this document or the Public Benefits.
- (b) The Developer must indemnify the City in relation to any claims, liabilities and costs (including penalties and interest) arising as a result of any Tax or other like liability for which the Developer is responsible under clause 12.1(a).

12.2 GST free supply

To the extent that Divisions 81 and 82 of the GST Law apply to a supply made under this document:

- (a) no additional amount will be payable by a party on account of GST; and
- (b) no tax invoices will be exchanged between the parties.

12.3 Supply subject to GST

To the extent that clause 12.2 does not apply to a supply made under this document, this clause 12.3 will apply.

- (a) If one party (**Supplying Party**) makes a taxable supply and the consideration for that supply does not expressly include GST, the party that is liable to provide the consideration (**Receiving Party**) must also pay an amount (**GST Amount**) equal to the GST payable in respect of that supply.
- (b) Subject to first receiving a tax invoice or adjustment note as appropriate, the receiving party must pay the GST amount when it is liable to provide the consideration.
- (c) If one party must indemnify or reimburse another party (**Payee**) for any loss or expense incurred by the Payee, the required payment does not include any amount which the Payee (or an entity that is in the same GST group as the Payee) is entitled to claim as an input tax credit, but will be increased under clause 12.3(a) if the payment is consideration for a taxable supply.
- (d) If an adjustment event arises in respect of a taxable supply made by a Supplying Party, the GST Amount payable by the Receiving Party under clause 12.3(a) will be recalculated to reflect the adjustment event and a payment will be made by the Receiving Party to the Supplying Party, or by the Supplying Party to the Receiving Party, as the case requires.
- (e) The Developer will assume the City is not entitled to any input tax credit when calculating any amounts payable under this clause 12.3.

- (f) In this document:
 - (i) consideration includes non-monetary consideration, in respect of which the parties must agree on a market value, acting reasonably; and
 - (ii) in addition to the meaning given in the GST Act, the term "GST" includes a notional liability for GST.

13. **DEALINGS**

13.1 **Dealing by the City**

- (a) The City may Deal with its interest in this document without the consent of the Developer if the Dealing is with a Government Agency. The City must give the Developer notice of the Dealing within five Business Days of the date of the Dealing.
- (b) The City may not otherwise Deal with its interest in this document without the consent of the Developer, such consent not to be unreasonably withheld or delayed.

13.2 **Dealing by the Developer**

- (a) Prior to registration of this document in accordance with clause 9, the Developer must not Deal with this document or the Land without:
 - (i) the prior written consent of the City; and
 - (ii) the City, the Developer and the third party the subject of the Dealing entering into a deed of consent to the Dealing on terms acceptable to the City.
- (b) On and from registration of this document in accordance with clause 9:
 - (i) the Developer may Deal with this document without the consent of the City only as a result of the sale of the whole of the Land (without subdivision) to a purchaser of the Land;
 - (ii) the Developer may register a plan of strata subdivision, and the City consents to this document remaining registered only on the certificate of title to the common property of the strata plan upon registration of the strata plan; and
 - (iii) the Developer must not otherwise Deal with this document to a third party that is not a purchaser of the whole or any part of the Land without:
 - (A) the prior written consent of the City; and
 - (B) the City, the Developer and the third party the subject of the Dealing entering into a deed of consent to the Dealing on terms acceptable to the City.

- (c) The Developer must pay the City's costs and expenses relating to any consent or documentation required due to the operation of this clause 13.2.

13.3 **Extinguishment or creation of interests on Transfer Land**

- (a) Prior to the dedication or transfer of the Transfer Land to the City, the Developer must:
 - (i) extinguish all leases and licences over the Transfer Land; and
 - (ii) extinguish all redundant encumbrances and those that, in the City's opinion, would unreasonably impede the intended use of all or any part of the Transfer Land.
- (b) The Developer must comply with any directions by the City relating to the Transfer Land, including but not limited to the creation of any encumbrances over the Transfer Land.

14. **TERMINATION**

- (a) The City may terminate this document by notice in writing to the Developer if the Development Consent lapses or is surrendered by the Developer.
- (b) If the City terminates this document then:
 - (i) the rights of each party that arose before the termination or which may arise at any future time for any breach or non-observance of obligations occurring prior to the termination are not affected;
 - (ii) the Developer must take all steps reasonably necessary to minimise any loss the each party may suffer as a result of the termination of this document;
 - (iii) the City will return the Guarantee to the Developer after first deducting any amounts owing to the City or costs incurred by the City by operation of this document. If in exercising its rights under this document the City expends more money than the Guarantee Amount then the amount in excess of the Guarantee Amount will be deemed to be a debt due and owing to the City by the Developer; and
 - (iv) the City will, at the Developer's cost, do all things reasonably required to remove this document from the certificate of title to the Land.

15. **CONFIDENTIALITY, DISCLOSURES AND PRIVACY**

15.1 **Use and disclosure of Confidential Information**

A party (**receiving party**) which acquires Confidential Information of another party (**disclosing party**) must not:

- (a) use any of the Confidential Information except to the extent necessary to exercise its rights and perform its obligations under this document; or
- (b) disclose any of the Confidential Information except in accordance with clauses 15.2 or 15.3.

15.2 **Disclosures to personnel and advisers**

- (a) The receiving party may disclose Confidential Information to an officer, employee, agent, contractor, or legal, financial or other professional adviser if:
 - (i) the disclosure is necessary to enable the receiving party to perform its obligations or to exercise its rights under this document; and
 - (ii) prior to disclosure, the receiving party informs the person of the receiving party's obligations in relation to the Confidential Information under this document and obtains an undertaking from the person to comply with those obligations.
- (b) The receiving party:
 - (i) must ensure that any person to whom Confidential Information is disclosed under clause 15.2(a) keeps the Confidential Information confidential and does not use it for any purpose other than as permitted under clause 15.2(a); and
 - (ii) is liable for the actions of any officer, employee, agent, contractor or legal, financial or other professional adviser that causes a breach of the obligations set out in clause 15.2(b)(i).

15.3 **Disclosures required by law**

- (a) Subject to clause 15.3(b), the receiving party may disclose Confidential Information that the receiving party is required to disclose:
 - (i) by law or by order of any court or tribunal of competent jurisdiction; or
 - (ii) by any Government Agency, stock exchange or other regulatory body.
- (b) If the receiving party is required to make a disclosure under clause 15.3(a), the receiving party must:
 - (i) to the extent possible, notify the disclosing party immediately it anticipates that it may be required to disclose any of the Confidential Information;
 - (ii) consult with and follow any reasonable directions from the disclosing party to minimise disclosure; and
 - (iii) if disclosure cannot be avoided:
 - (A) only disclose Confidential Information to the extent necessary to comply; and
 - (B) use reasonable efforts to ensure that any Confidential Information disclosed is kept confidential.

15.4 **Receiving party's return or destruction of documents**

On termination of this document the receiving party must immediately:

- (a) deliver to the disclosing party all documents and other materials containing, recording or referring to Confidential Information; and
- (b) erase or destroy in another way all electronic and other intangible records containing, recording or referring to Confidential Information,

which are in the possession, power or control of the receiving party or of any person to whom the receiving party has given access.

15.5 **Security and control**

The receiving party must:

- (a) keep effective control of the Confidential Information; and
- (b) ensure that the Confidential Information is kept secure from theft, loss, damage or unauthorised access or alteration.

15.6 **Media releases**

The Developer must not issue any information, publication, document or article for publication in any media concerning this document or the Public Benefits without the City's prior written consent.

15.7 **Privacy**

- (a) Without limiting its obligations at law with respect to privacy and the protection of Personal Information, the Developer:
 - (i) must not, directly or indirectly collect, use or disclose any Personal Information under or in connection with this document except to the extent necessary to perform its obligations under this document; and
 - (ii) must in the delivery of the Public Benefits and the performance of all its other obligations under this document comply with the Privacy Laws and must not do any act or engage in any practice that would breach the Privacy Laws or which if done or engaged in by the City would be a breach of any Privacy Laws.

16. **NOTICES**

- (a) A notice, consent or other communication under this document is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail or email. If it is sent by mail, it is taken to have been received 5 Business Days after it is posted. If it is sent by email, it is taken to have been received the same day the email was sent, provided that the sender has not received a delivery failure notice (or similar), unless the time of receipt is after 5:00pm in which case it is taken to be received on the next Business Day.

- (b) A person's address and email address are those set out in Schedule 1 for the City's Representative and the Developer's Representative, or as the person notifies the sender in writing from time to time.

17. **CHAIN OF RESPONSIBILITY**

- (a) In this clause:
 - (i) **Chain of Responsibility** means legislation that extends liability for Road Law offences to all parties whose actions, inactions or demands influence conduct on the road particularly in relation to speed, fatigue, vehicle standards, vehicle roadworthiness, load restraint, and mass and dimension.
 - (ii) **HVNL** means the *Heavy Vehicle National Law* (NSW), regulations and other instruments under it including any codes of practice and any consolidations, amendments, re-enactments or replacements.
 - (iii) **Heavy Vehicle** has the meaning given to it in the HVNL.
 - (iv) **Road Law** means any law, regulation or rule relating to the use of a road, restrictions on driving hours (in whichever legislative instrument those requirements may appear), mass, load and restraint requirements for the carriage of goods, dangerous goods, environmental impacts and speed and traffic requirements and includes the HVNL.
- (b) The Developer must in connection with any activity carried out under or in relation to this document:
 - (i) comply with all Chain of Responsibility legislation and must ensure that any activity relating to a Heavy Vehicle used in connection with this document is undertaken in accordance with all applicable Chain of Responsibility obligations (including any fatigue, speed, mass, dimension or load restraint requirements);
 - (ii) not ask, direct or require (directly or indirectly) the driver of a Heavy Vehicle or a party in the Chain of Responsibility to do or not do something the Developer knows, or ought reasonably to know, would have the effect of causing the driver to contravene their Chain of Responsibility obligations, including to breach any fatigue, speed, mass, dimension or load restraint requirements;
 - (iii) ensure that any subcontractors (where any Heavy Vehicle activities are sub-contracted under this document) are contractually bound by similar Chain of Responsibility obligations to those set out in this clause 17(b).
- (c) The Developer will ensure that it has proper processes in place to manage its Chain of Responsibility obligations.
- (d) The Developer must provide the City, upon request, with all information and documentation reasonably required by the City to monitor or audit compliance with this clause (including permitting inspections of vehicles and business premises).

18. GENERAL

18.1 Governing law

- (a) This document is governed by the laws of New South Wales.
- (b) Each party submits to the exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.

18.2 Access to information

In accordance with section 121 of the *Government Information (Public Access) Act 2009 (NSW)*, the Developer agrees to allow the City immediate access to the following information contained in records held by the Developer:

- (a) information that relates directly to the delivery of the Public Benefits by the Developer;
- (b) information collected by the Developer from members of the public to whom the Developer provides, or offers to provide, services on behalf of the City; and
- (c) information received by the Developer from the City to enable the Developer to deliver the Public Benefits.

18.3 Liability for expenses

- (a) The Developer must pay its own and the City's expenses incurred in negotiating, executing, registering, releasing, administering and enforcing this document.
- (b) The Developer must pay for all reasonable costs and expenses associated with the preparation and giving of public notice of this document and the explanatory note prepared in accordance with the Regulations and for any consent the City is required to provide under this document.

18.4 Relationship of parties

- (a) Nothing in this document creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) No party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

18.5 **Giving effect to this document**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this document.

18.6 **Time for doing acts**

(a) If:

- (i) the time for doing any act or thing required to be done; or
- (ii) a notice period specified in this document,

expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.

(b) If any act or thing required to be done is done after 5pm on the specified day, it is taken to have been done on the following Business Day.

18.7 **Severance**

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this document without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

18.8 **Preservation of existing rights**

The expiration or termination of this document does not affect any right that has accrued to a party before the expiration or termination date.

18.9 **No merger**

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this document for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

18.10 **Waiver of rights**

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

18.11 **Operation of this document**

- (a) This document contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and has no further effect.
- (b) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

18.12 **Operation of indemnities**

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

18.13 **Inconsistency with other documents**

Unless the contrary intention is expressed, if there is an inconsistency between any of one or more of:

- (a) this document;
- (b) any Schedule to this document; and
- (c) the provisions of any other document of the Developer,

the order of precedence between them will be the order listed above, this document having the highest level of precedence.

18.14 **No fetter**

Nothing in this document in any way restricts or otherwise affects the City's unfettered discretion to exercise its statutory powers as a public authority.

18.15 **Electronic execution**

The parties acknowledge and agree to this document being executed electronically, and in counterparts.

SCHEDULE 1

Agreement Details

ITEM	TERM	DESCRIPTION
1.	Land	Lots 2-3 Section 1 DP 2269 known as 657-657A Botany Road Rosebery 2018
2.	Development	Demolition of existing structure and construction of a new commercial building The total Gross Floor Area of the Development on the Land is 424 square metres.
3.	City's Representative	Name: Director, Planning, Development and Transport Address: Level 1, 456 Kent Street, Sydney NSW 2000 Email: gjahn@cityofsydney.nsw.gov.au
4.	Developer's Representative	Name: John Perry Address: Hely Horne Perry Architects Level 1, 41 Thomas Street, McMahon's Point NSW 2060 Email: jperry@hhpa.com.au
5.	Development Application	D/2021/1335
6.	Guarantee Amount	A total amount of \$4,864.00
7.	Guarantee Amount Due Date	On or before the date of execution of this document

SCHEDULE 2

Requirements under the Act and Regulation (clause 2)

The below table summarises how this document complies with the Act and Regulation.

ITEM	SECTION OF ACT OR REGULATION	PROVISION/CLAUSE OF THIS DOCUMENT
1.	<p>Planning instrument and/or development application (section 7.4(1) of the Act)</p> <p>The Developer has:</p> <p>(a) sought a change to an environmental planning instrument;</p> <p>(b) made, or proposes to make, a Development Application; or</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) No</p> <p>(b) Yes</p> <p>(c) No</p>
2.	<p>Description of land to which this document applies (section 7.4(3)(a) of the Act)</p>	Item 1 of Schedule 1.
3.	<p>Description of change to the environmental planning instrument to which this document applies and/or the development to which this document applies (section 7.4(3)(b) of the Act)</p>	The Development as described in clause 2.1.
4.	<p>The nature and extent of the provision to be made by the developer under this document, the time or times by which the provision is to be made and the manner in which the provision is to be made (section 7.4(3)(c) of the Act)</p>	0 and Annexure A.
5.	<p>Whether this document excludes (wholly or in part) or does not exclude the application of section 7.11, 7.12 or 7.24 to the development (section 7.4(3)(d) of the Act)</p>	Sections 7.11, 7.12 and 7.24 of the Act are not excluded.

ITEM	SECTION OF ACT OR REGULATION	PROVISION/CLAUSE OF THIS DOCUMENT
6.	Applicability of section 7.11 of the Act (section 7.4(3)(e) of the Act)	The application of section 7.11 of the Act is not excluded in respect of the Development and contributions (if any) under section 7.11 will be required to be paid.
7.	Consideration of benefits under this document if section 7.11 applies (section 7.4(3)(e) of the Act)	Benefits are not to be taken into consideration in determining a development contribution under section 7.11 of the Act.
8.	Mechanism for Dispute Resolution (section 7.4(3)(f) of the Act)	Clause 11
9.	Enforcement of this document (section 7.4(3)(g) of the Act)	Clause 10
10.	No obligation to grant consent or exercise functions (section 7.4(9) of the Act)	Clause 2.4
11.	Registration of this document (section 7.6 of the Act)	Clause 9
12.	Whether certain requirements of this document must be complied with before a construction certificate is issued (clause 25E(2)(g) of the Regulation)	Nil
13.	Whether certain requirements of this document must be complied with before a subdivision certificate is issued (clause 25E(2)(g) of the Regulation)	Nil
14.	Whether certain requirements of this document must be complied with before an occupation certificate is issued (clause 25E(2)(g) of the Regulation)	Payment of the Monetary Contribution. Dedication of the Transfer Land to the City. Completion of the Developer's Works.
15.	Whether the explanatory note that accompanied exhibition of this document may be used to assist in construing this document (clause 25E(7) of the Regulation)	Clause 2.5

Public Benefits (clause 5)

1. PUBLIC BENEFITS - OVERVIEW

The Developer must provide the Public Benefits in accordance with Schedule 3 and this document. The Attributed Value, timing of delivery and additional specifications relating to the Public Benefits is set out in the table below

	Public Benefit	Attributed Value	Due date	Additional specifications
1.	Monetary Contribution	\$4,776.00	On or before the date of execution of this document	For community infrastructure in the Green Square urban renewal area.
2.	Transfer Land	\$2,560.00	After Completion but before the issue of the first Occupation Certificate for the Development.	A 1.4 metre wide public domain setback along the Botany Road frontage of the Land for the purposes of footpath widening, being an area of approximately 12.8 square metres, together with the portion of land zoned SP2 approximately 5.52 metres wide that meets the specifications contained in Annexure A of this document, and is as shown in the plan contained in Annexure B of this document.
3.	Developer's Works	\$4,864.00	Before the issue of the first Occupation Certificate for the Development.	Construction of a widened footpath in accordance with the specifications contained in Annexure A to this document.

2. PAYMENT OF MONETARY CONTRIBUTION

2.1 Payment

The Developer must pay the Monetary Contribution to the City on the date of this document in cash or by unendorsed bank cheque.

2.2 **Indexation**

If the Monetary Contribution is not paid to the City on the date of this document then at the date of payment the Monetary Contribution must be indexed as follows:

Monetary Contribution (to be provided) =

Monetary Contribution (as per item 1 of clause 1 above) x
(A/B)

where:

- A** is the Index Number most recently published before the date the Monetary Contribution is to be paid
- B** is the Index Number most recently published before the date this agreement commenced in accordance with clause 3.1 of this document.

If after the formula is applied the Monetary Contribution will be less than the amount stated in item 1 of clause 1 above, the Monetary Contribution will not be adjusted.

2.3 **No trust**

Nothing in this document creates any form of trust arrangement or fiduciary duty between the City and the Developer. Following receipt of the Monetary Contribution, the City is not required to separately account for the Monetary Contribution, report to the Developer regarding expenditure of the Monetary Contribution or comply with any request by the Developer to trace the Monetary Contribution.

3. **TRANSFER LAND**

3.1 **Dedication of land – decision**

The Developer must, at its cost, take all steps required to dedicate the Transfer Land to the City by the due date specified in clause 1 of 0 by way of registration of a plan of subdivision.

3.2 **Obligations on dedication**

- (a) The requirement for the Developer to dedicate the Transfer Land to the City is satisfied where a deposited plan is registered in the register of plans held with the Registrar-General that dedicates land as a public road (including a temporary public road) under the *Roads Act 1993* (NSW).
- (b) The Developer must provide to the City evidence of registration of the plan of subdivision, including a complete copy of the registered instrument, showing that the Transfer Land has been dedicated to the City in accordance with the requirements of this document.
- (c) The Developer is to do all things reasonably necessary to enable registration of the plan of subdivision to occur.

- (d) The Developer must ensure that the Transfer Land is free of all encumbrances and affectations (whether registered or unregistered and including without limitation any charge or liability for rates, taxes and charges) except for any encumbrances agreed in writing by the City in its absolute discretion.
- (e) The Developer must indemnify and agree to keep indemnified the City against all claims made against the City as a result of any Contamination in, over, under or migrating from the whole or any part of the Transfer Land but only in relation to Contamination that existed on or before the date that the Transfer Land is dedicated to the City in accordance with the requirements of this clause.
- (f) The Developer warrants that as at the date of this deed the Transfer Land is not subject to any Adverse Affectation and warrants as to those matters in Schedule 3 of the *Conveyancing (Sale of Land) Regulation 2010 (NSW)*, unless otherwise notified to and agreed by the City in writing in its absolute discretion.

4. **FINAL DESIGN OF THE DEVELOPER'S WORKS**

4.1 **Scope of Developer's Works**

As at the date of this document, the nature and extent of the required Developer's Works is set out in Annexure A to this document. The parties agree that further design refinement of the Developer's Works may be necessary, having regard to:

- (a) the extent to which the design of the Developer's Works has been approved by the City;
- (b) conditions affecting the Developer's Works that were not reasonably capable of identification prior to the date of this document;
- (c) the extent of any refinement of the design of the Developer's Works permitted by this clause 3.2(f) of 0;
- (d) any modification to the Development Consent made and approved under section 4.55 of the Act or any other development consent granted that relates to the Developer's Works; and
- (e) the reasonable requirements of the City, including in regard to the Standards.

4.2 **Final design of Developer's Works**

- (a) Within 3 months of the date of this document (or a later time approved by the City in writing) but prior to the issue of the first Construction Certificate for the Development, the Developer must submit to the City's Representative for approval:
 - (i) detailed design drawings of the Developer's Works that reflect the plans and specifications set out in Annexure A; and

- (ii) a detailed costs estimate (certified by a Quantity Surveyor) setting out the estimated cost of the Developer's Works.
- (b) Within 30 Business Days after the City's Representative has received the detailed design drawings and detailed costs estimate, the City will inform the Developer in writing as to whether the detailed design drawings and costs estimate are approved. If the detailed design drawings or costs estimate are not approved, the City will inform the Developer in writing of what further information or modifications are required and the Developer will have a further 15 Business Days to re-submit the required information, following which the process outlined in this paragraph (b) will apply again.
- (c) Regarding the costs estimate, the Developer agrees that the City may:
 - (i) reject items included within the Quantity Surveyor's Assessment which are not directly related to the Developer's Works;
 - (ii) require substantiation for the costs of items where the amount estimated is considered by the City to be excessive;
 - (iii) require an adjustment to the costs estimate to reflect a variation to the design required under this clause 4.2 of 0.
- (d) If the Developer:
 - (i) fails to prepare the detailed design drawings or detailed costs estimate; or
 - (ii) does not provide further information or modify the detailed design drawings or detailed costs estimate,

in accordance with this clause 4.2 of 0, then the City may exercise its rights under clause 10 of this document in order to carry out the Developer's Works itself at the cost of the Developer.
- (e) The Developer agrees that the value of the Developer's Works may be adjusted following completion of the process set out in this clause 4.2 of 0. The Developer acknowledges that the scope of the Developer's Works will not change or reduce if the costs required to complete those works is greater than the amount estimated at the date of this document.

4.3 **Preparation of and changes to construction design drawings**

- (a) Following approval of the detailed design drawings by the City in accordance with clause 4.2 of 0, the Developer must promptly:
 - (i) prepare construction design drawings that comply with the detailed design drawings; and
 - (ii) provide the City with a copy of the construction design drawings.
- (b) The City, acting reasonably, may by written notice to the Developer at any time, approve, vary or direct the Developer to vary the construction design drawings so that the Developer's Works reflect:

- (i) the Standards;
 - (ii) a departure or discrepancy from the plans approved under clause 4.2 of 0; or
 - (iii) any other standard or specification for materials or methodology for carrying out works that is adopted by the City from time to time, provided that any direction given under this clause 4.3(b)(iii) of 0 does not significantly increase:
 - (A) the cost of that element of the Developer's Works; or
 - (B) the complexity of implementation of the Developer's Works that may lead to a significant delay in the completion of the Developer's Works.
- (c) Within 20 Business Days of receiving a notice from the City under clause 4.3(b) of 0, the Developer must:
- (i) to the extent practicable, use reasonable endeavours to comply with the notice given by the City; or
 - (ii) if the Developer determines that the notice given by the City is unreasonable or impracticable, notify a dispute in accordance with clause 11 of this document.

If the Developer does not provide any response during the 20 Business Days after receiving a notice from the City under clause 4.3(b) of 0, it is deemed that the Developer accepts the notice given by the City and will take all steps required to comply with the notice.

- (d) The City does not assume or owe any duty of care to the Developer in reviewing any design drawings submitted to it under this clause 3.2(f) of 0 or for any errors, omissions or non-compliance with this document.
- (e) No participation by the City in the development of, the review of, or comments on any design drawings submitted by the Developer will lessen or otherwise affect the Developer's obligations under this document or constitute an acknowledgement by the City that the Developer has complied with its obligations under this document.

5. **CONSTRUCTION OF DEVELOPER'S WORKS**

5.1 **Insurance**

- (a) From commencement of the Developer's Works until expiration of the Defects Liability Period, the Developer must effect and maintain (or cause to be effected and maintained under one or more policies of insurance and without requiring any risk to be double insured) the following insurances held with an insurer licensed by the Australian Prudential Regulation Authority or holding an investment grade rating from Standard & Poors, Moody's or Fitch:

- (i) worker's compensation insurance or registrations as required by Laws;
 - (ii) public liability insurance written on an occurrence basis with a limit of indemnity of not less than \$20,000,000 covering all aspects of the Developer's Works;
 - (iii) construction works insurance in relation to the Developer's Works; and
 - (iv) motor vehicle third party cover with a limit of indemnity of not less than \$20 million for each and every occurrence.
- (b) The Developer must submit a copy of all certificates of insurance to the City:
- (i) prior to commencing construction of the Developer's Works; and
 - (ii) promptly following a written request by the City, provided that such a request is not made more than twice in any 12 month period.

5.2 **Approvals and consents**

The Developer must, at its cost, obtain all relevant approvals and consents for the Developer's Works, whether from the City or from any other relevant Government Agency, including any necessary road opening permits. Before commencing the Developer's Works, the Developer must give to the City copies of all approvals and consents for the Developer's Works, other than the Development Consent.

5.3 **Construction work**

The Developer must, at its cost:

- (a) carry out and complete the Developer's Works in accordance with all approvals and consents relating to the Developer's Works, including any approval given by the City under this document;
- (b) ensure that all Developer's Works are constructed in a good and workmanlike manner, in accordance with the plans approved under this document so that the Developer's Works are structurally sound, fit for purpose and suitable for their intended use;
- (c) ensure that the Developer's Works are Complete by the due date specified in clause 1 of 0 and promptly after becoming aware advise the City's Representative of any significant delays in completing the Developer's Works or delays that may impact the delivery of the Public Benefits by the due date specified in Item 1 of 0; and
- (d) comply with all reasonable directions of the City in respect to construction of the Developer's Works.

5.4 **Inspections by the City**

The City, as a party to this document and not in its role as a Government Agency, may:

- (a) inspect the Developer's Works during the course of construction at reasonable times and on reasonable notice; and
- (b) notify the Developer's Representative of any material or significant defect, error or omission relating to the construction or installation of the Developer's Works identified during or as the result of an inspection.

Any failure by the City to identify a Defect, error or omission will not be construed as amounting to an acceptance by the City of the Defect, error or omission.

6. **STANDARDS**

The following list of Standards are included for information purposes only, and as a guide to the relevant standards for the general nature of the work identified as Developer's Works in this document. The City makes no representation or warranty as to the currency of the standards identified, or their application on the final design of the Developer's Works. The Developer must make its own enquiries regarding whether any standard has been replaced or supplemented. In the event that an Australian Standard prescribed a different level of material, finish, work or workmanship than those contained in a City standard, then the higher of the two standards will apply. If there is a conflict between City standards then the Developer must request the City nominate the correct and applicable City standard. The City's decision as to the applicable standard is final.

Relevant Australian Standards – Verge Works, Through site links

- AS 1725 Geotechnical Site investigations
- AS 4455 Masonry Units and segmental pavers
- AS 4678 Earth Retaining Structures
- AS 3600 Concrete Structures
- AS 2876 Concrete kerbs and channels
- AS 1158 Road Lighting
- AS 1743 Road signs
- AS 4282 Control of the Obtrusive Effects of Outdoor lighting
- AS 3500 Plumbing and Drainage
- AS 3700 Masonry Structures
- AS 2890 Parking Facilities
- AS 1428 Design for Access and Mobility
- AS 4454 Composts, soil conditioners and mulches

Relevant Australian Standards – Roads (including pedestrian areas)

- AS 1725 Geotechnical Site investigations

- AS 4455 Masonry Units and segmental pavers
- AS 4678 Earth Retaining Structures
- AS 3600 Concrete Structures
- AS 2876 Concrete kerbs and channels
- AS 1158 Road Lighting
- AS 4282 Control of the Obtrusive Effects of Outdoor lighting
- AS 1428 Design for Access and Mobility
- AS 3500 Plumbing and Drainage
- AS 3700 Masonry Structures
- AS 2890 Parking Facilities
- AS 1742 Manual of uniform traffic control devices
- AS 1743 Road Signs

City Standards (All Works)

- City of Sydney Contaminated Lands DCP 2004
- Sydney Street Code 2013
- Sydney Lights Code 2013
- City of Sydney Access Policy
- Sydney Street Technical Specification and Drawings
- City of Sydney Street Tree Master Plan 2011

EXECUTED as a deed.

Signed, sealed and delivered for
**THE COUNCIL OF THE CITY OF
SYDNEY** (ABN 22 636 550 790) by
its duly authorised officer, in the
presence of:

Signature of witness

Signature of officer

Name of witness

Name of officer

Authorised delegate pursuant to section
377 of the Local Government Act 1993

456 Kent Street,
Sydney NSW 2000

Address of witness

Director City Planning, Development &
Transport, Council of the City of Sydney

Position of officer

*Electronic signature of me, named
above, affixed by me on:*

*Electronic signature of me, named
above, affixed by me on:*

Date

Date

This document was signed in counterpart and witnessed over audio visual link in
accordance with section 14G of the *Electronic Transactions Act 2000* (NSW).

EXECUTED by **PICO ALFA PTY LTD**
(ACN 164 790 292) in accordance with
s127(1) of the Corporations Act 2001
(Cth):

Signature of sole director/secretary

Name

*Electronic signature of me, named
above, affixed by me on:*

Date

ANNEXURE A

Public Benefits –specifications

Transfer Land

The Transfer Land must:

- (a) Be remediated in accordance with the Development Consent to be suitable for use as a public footpath, prior to its dedication to the City.
- (b) Not be subject to any environmental management plan.
- (c) Be dedicated to the City free of any encumbrances or encroachments.

Developer's Works

The Developer's Works comprise the following elements to be delivered in accordance with this document:

- (a) Construct within the Transfer Land:
 - (i) a continuous accessible path of travel against the building of between 3.7m - 3.9m wide with a paving material of insitu concrete with a staggered jointing pattern,
 - (ii) a planting bed with low shrubs and grasses approximately 2.5m wide allowing for footpath access to the building entry, and
 - (iii) the remaining area to be a paving material of insitu concrete with a staggered jointing pattern and the existing street tree to be retained.
- (b) The footpath must be constructed to the City's technical specifications and embellished in accordance with the City Streets Code.
- (c) The footpath must integrate the adjoining existing and new footpaths that will be upgraded as part of the Development Consent.
- (d) Remediation of the Transfer Land to be fit for purpose for use as a public footpath. If remediation includes a capping layer, that capping layer must be a minimum of 1.5 metres below the top-most surface of the Transfer Land.
- (e) The Developer must submit an interim site auditor report or site audit statement to the City for approval after the remediation has been completed, and prior to the construction of the Developer's Works.

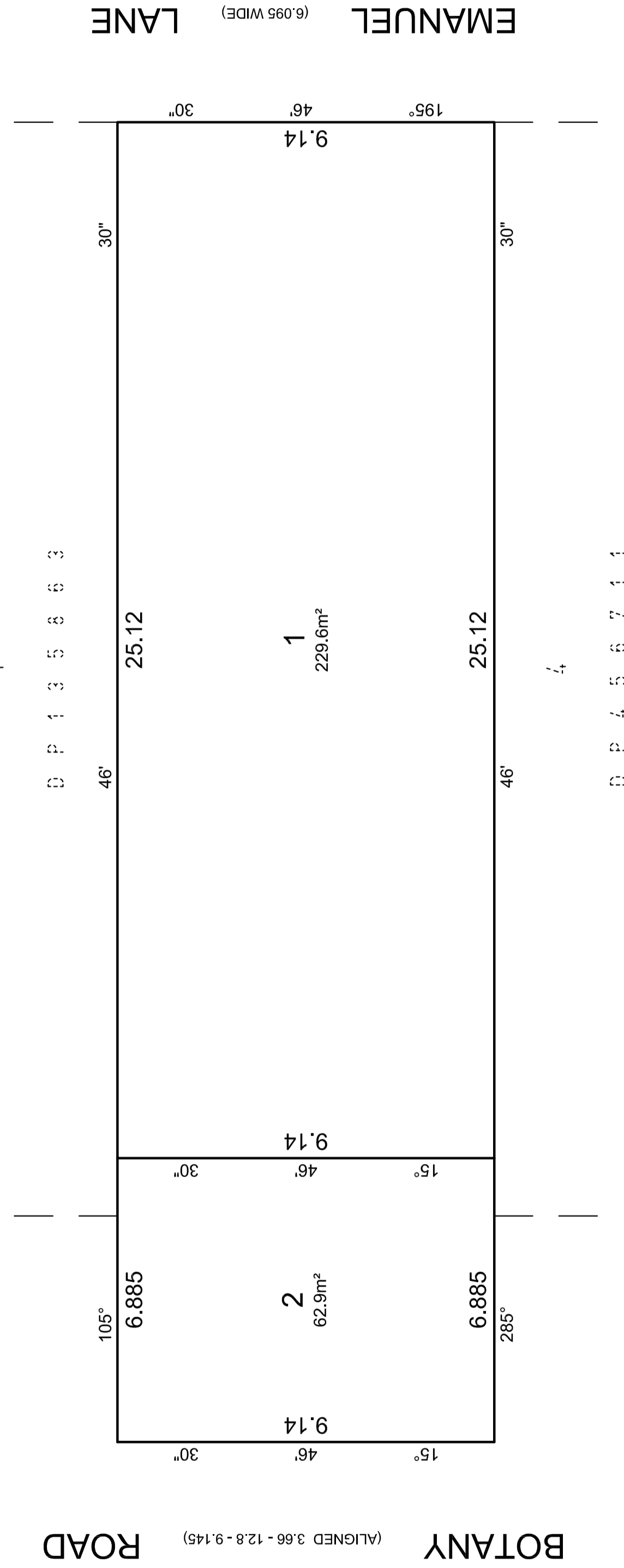
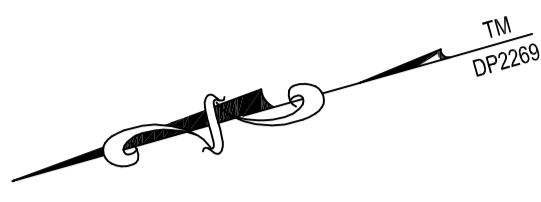
ANNEXURE B

Public Benefits – plans

Transfer Land Plan

DRAFT SUBDIVISION PLAN PREPARED FROM ARCHITECTURAL PLANS BY HHP ARCHITECTS, JOB No: 1126, ISSUE: A, DATED: 29-11-21 AND PLAN OF PROPOSED ALIGNMENT, CROWN PLAN 24-1910

REVISION: 2
DATED: 01-09-2022



IT IS INTENDED TO DEDICATE LOT 2 AS ROAD WIDENING TO THE PUBLIC AS PUBLIC ROAD

SURVEYOR
NAME: JOHN WALTON
DATE OF SURVEY:
REFERENCE: 5770-22DP

PLAN OF: SUBDIVISION OF LOTS 2-3 OF SECTION 1 IN DP2269

LGA: SYDNEY
LOCALITY: ROSEBERY
Reduction Ratio: 1 : 100
Lengths are in metres

REGISTERED:

DRAFT DP

Item 6.

Report to the Local Planning Panel - Status of Applications

File No: X019228

Summary

The purpose of this report is to inform members of the Local Planning Panel (LPP) of the current applications under assessment that are to be reported to the LPP, of applications that have been previously determined by the LPP and have been subject to modification applications, and of appeals relating to LPP applications.

Attachment A contains a list of applications due to be determined by the LPP. This list includes the application reference number, address of the proposal, the description of the proposal, the target meeting date and the reason why the application is referred to the LPP for determination.

Attachment B contains a summary of Land and Environment Court appeal information relating to applications determined by the LPP or appeals relating to deemed refusals of applications that would have been determined by the LPP.

Attachment C contains a list of applications for modification lodged in the fourth quarter of 2021/22 on previous LPP approvals.

Recommendation

It is resolved that the subject report be received and noted

Attachments

- Attachment A.** Applications to be Reported to the Local Planning Panel
- Attachment B.** Appeals Related to Local Planning Panel Applications
- Attachment C.** List of Modification Applications Lodged on Local Planning Approvals

Background

1. There are currently 35 applications lodged with the City that are to be considered and determined by the LPP.
2. The list of development applications is provided in Attachment A. The application list is sorted by target meeting date.
3. Attachment B details Land and Environment Court appeals that relate to LPP decisions or applications that were due to be determined by the LPP but were subject to a deemed refusal appeal.
4. Attachment C lists modification applications relating to LPP approvals lodged in the fourth quarter of 2021/22. There were 12 modifications lodged in the fourth quarter of 2021/22. Four remain under assessment.

Relevant Legislation

5. Environmental Planning and Assessment Act 1979.

ANDREW THOMAS

Executive Manager Planning and Development

James Farrar, Information and Systems Officer

Attachment A

**Applications to be Reported to the Local
Planning Panel**

Applications to be reported to the Local Planning Panel

Application number	Address	Description	Meeting target	Reason for LPP determination
D/2021/1335	657-657A Botany Road ROSEBERY NSW 2018	Demolition of existing structure and construction of a new commercial building.	12/10/2022	Sensitive development. VPA
D/2021/1445	34 Pirrama Road PYRMONT NSW 2009	Amending DA to include an additional use for a function centre for maximum of 130 persons. Proposed hours of operation are 7.00am to 10.00pm seven days per week with a trial period from 10.00pm to midnight for 12 months.	12/10/2022	Contentious development
D/2021/1531	360 Victoria Street DARLINGHURST NSW 2010	Change of use of Green Park Hotel to a medical centre (mental health service) and associated internal alterations.	12/10/2022	Contentious development
D/2022/598	123 Pitt Street SYDNEY NSW 2000	Construction of temporary Type B hoarding at Angel Place	12/10/2022	Conflict of interest
D/2021/1512	807 South Dowling Street WATERLOO NSW 2017	Change of use of the existing buildings from serviced apartments to their original approved use as residential apartments	02/11/2022	Sensitive development. SEPP65
D/2021/689	101 Palmer Street WOOLLOOMOOLOO NSW 2011	Alterations and additions to residential development to construct a 6 level residential flat building (11 units) and roof top communal open space.	2/11/2022	Sensitive development. SEPP65
D/2021/1538	227 Victoria Street DARLINGHURST NSW 2010	Painted mural/advertisement on the northern elevation of the building. The proposed display period is 24 months.	2/11/2022	Departure from development standards

Application number	Address	Description	Meeting target	Reason for LPP determination
D/2021/1528	6-8 Huntley Street ALEXANDRIA NSW 2015	Redevelopment of existing building and use as a public recreation facility. Proposed hours of operation are 5.00am-11.30pm Mondays to Fridays, and 5.30am-11.30pm Saturdays and Sundays.	02/11/2022	Conflict of interest
D/2021/893	28-30 Orwell Street POTTS POINT NSW 2011	Alterations and additions to the existing building including new basement levels, for a mixed use development. The proposed uses include a hotel with 63 rooms; cafe with hours of operation between 7.00am – 12.00 midnight, Mondays to Sundays inclusive; entertainment facility, restaurant and bar with hours of operation between 7.00am – 1.00am the following day, Mondays to Sundays inclusive; entertainment facility and nightclub with hours of operation between 10.00am – 3.00am the following day, Mondays to Sundays inclusive; and small bar with hours of operation between 10.00am – 3.00am the following day, Mondays to Sundays inclusive. The application is Integrated Development requiring the approval of Heritage NSW under the Heritage Act 1977, and from Water NSW under the Water Management Act 2000.	02/11/2022	Departure from development standards and Contentious development
D/2022/820	229-231 Macquarie Street SYDNEY NSW 2000	Change of use of basement tenancy to a restricted premises (Gentleman's Club) including licensed food and drink use, and minor internal alterations. Proposed capacity is 220 patrons, with trading hours of 4pm – 3am, Mondays to Sundays inclusive.	02/11/2022	Sensitive development. Restricted premises
D/2022/274	16-18 Meagher Street CHIPPENDALE NSW 2008	Re-Notification: Alterations and additions to commercial development including additions to the third storey and use of the Ground Level as a new public gallery (with ancillary retail) and Level 1 and Level 2 as a commercial office space for use as a photography and art studio by the building's owner. The proposed hours of operation for the gallery are 7.00am to 10.00pm Monday to Sunday, inclusive.	23/11/2022	Departure from development standards

Application number	Address	Description	Meeting target	Reason for LPP determination
D/2021/1478	29-33 Ithaca Road ELIZABETH BAY NSW 2011	Alterations and additions to an existing part-2 and part-3 storey residential flat building to create a part-3 and part-4 storey residential flat building	23/11/2022	Sensitive development. SEPP65
D/2022/473	26A Pirrama Road PYRMONT NSW 2009	Designated Development application for the reconfiguration of the existing Jones Bay Wharf Marina including the increase of nine berths (from 31 to 40 vessels) and associated floating storage and ancillary structures and infrastructure. The application is an Integrated DA requiring approval under the Fisheries Management Act 1994 and the Water Management Act 2000.	23/11/2022	Sensitive development. Designated development
D/2022/548	960A Bourke Street ZETLAND NSW 2017	Designated Development application for site preparatory works, excavation, soil treatment works to Stages 3 and 4 of the Green Square Town Centre. The application is an Integrated DA requiring approval under the Protection of the Environment Operations Act 1997 and the Water Management Act 2000.	23/11/2022	Sensitive development. Designated development
D/2022/264	180 George Street SYDNEY NSW 2000	Fitout and use of Jacksons on George as a licensed pub with associated outdoor seating and signage. Proposed total patron capacity is 775 persons with 275 people on the upper ground floor (inclusive of 50 patrons for the gaming room and 55 outdoor dining), 250 people of Level 1 and 250 people on Level 2. Proposed hours of operation are 24 hours daily on the upper ground floor public bar, gaming room and Level 1 restaurant, 7am to 12 midnight on the Level 2 rooftop terrace and 7am to 1am on upper ground floor outdoor seating areas.	23/11/2022	Sensitive development. Licenced premises

Application number	Address	Description	Meeting target	Reason for LPP determination
D/2022/878	123 Pitt Street SYDNEY NSW 2000	Construction of temporary Type B hoarding at Ash Street associated with works to 123 Pitt Street.	23/11/2022	Conflict of interest
D/2022/643	41-45 Erskine Street SYDNEY NSW 2000	Demolition of existing building on site and construction of a new seventeen storey residential flat building with 14 apartments and nine basement levels.	23/11/2022	Sensitive development. SEPP65
D/2017/582/A	357 Glebe Point Road GLEBE NSW 2037	Section 4.56 modification of Land and Environment Court concept approval to modify the building envelope to be consistent with the detailed development application D/2021/711.	14/12/2022	Contentious development
D/2021/711	357 Glebe Point Road GLEBE NSW 2037	Detailed design for the demolition of the existing MRC building, remediation, construction of a 3 to 7 storey residential flat building containing 56 apartments, 7 x 2 storey terraces, shared basement over 3 levels with associated car parking, landscape works, tree removal, use of Bidura House Group as a single residence, conservation works with new garage and amendment to curtilage, and public domain improvements to Ferry Lane for footpath widening and land dedication. The application is Integrated Development, requiring approval from Heritage NSW under the Heritage Act 1977. The application is being assessed concurrently with concept modification D/2017/582/A.	14/12/2022	Sensitive development. SEPP65 & Contentious development
D/2022/229	2 Avenue Road GLEBE NSW 2037	Alterations and additions to educational establishment known as St Scholastica's College.	14/12/2022	Departure from development standards
D/2022/285	163 Bridge Road GLEBE NSW 2037	Alterations and additions to a parish building and part change of use to a co-living development	14/12/2022	Departure from development standards

Application number	Address	Description	Meeting target	Reason for LPP determination
D/2022/306	9A Rosebery Avenue ROSEBERY NSW 2018	Installation of new automated public toilet (APT) and associated digital advertising signage panels in Rosebery Park.	14/12/2022	Conflict of interest
D/2022/431	5010 Sydney Place WOOLLOOMOOLOO NSW 2011	Other - Installation of new automated public toilet (APT).	14/12/2022	Conflict of interest
D/2022/444	9 Bowden Street ALEXANDRIA NSW 2015	Demolition of existing structures, including removal of vegetation and four trees, site preparation works involving minor regrading across the site. Construction and use of two separate four storey commercial office development buildings.	14/12/2022	Sensitive development. VPA
D/2022/610	1 Coneill Place FOREST LODGE NSW 2037	Demolition, subdivision of land into 2 lots and construction of 2 semi-detached dwellings	14/12/2022	Departure from development standard
D/2022/808	136 Oxford Street DARLINGHURST NSW 2010	Use of Taylor Square for a weekly Saturday Farmers Market for a 12-month period. Proposed bump in/set up hours between 7am and 8am, trading hours between 8am and 1pm, and bump out/set down hours between 1pm and 2pm.	14/12/2022	Conflict of interest
D/2022/846	8 Coneill Place FOREST LODGE NSW 2037	Demolition of existing dwelling and construction of new dwelling including garage, swimming pool and shed. The application is Integrated Development requiring the approval of WaterNSW under the Water Management Act 2000.	14/12/2022	Departure from development standards
D/2022/826	79 Wigram Road GLEBE NSW 2037	Alterations and additions to residential development	01/02/2023	Departure from development standards

Application number	Address	Description	Meeting target	Reason for LPP determination
D/2022/79	171B Botany Road WATERLOO NSW 2017	Demolition of existing buildings and construction of a four storey mixed use development comprising two retail premises and 47 apartments.	01/02/2023	Sensitive development. SEPP65
D/2022/736	25 Turner Street REDFERN NSW 2016	Alterations and additions to residential development including new detached two storey structure at rear of property	01/02/2023	Sensitive development. Partial demolition of heritage item
D/2022/677	145-151 Cleveland Street DARLINGTON NSW 2008	Alterations and additions to commercial development, including demolition works, retention of building structure and construction of two additional levels.	22/02/2023	Departure from development standards
D/2022/327	191-195 Oxford Street DARLINGHURST NSW 2010	Alterations and additions, demolition, and construction of a mixed use development with basement, including basement hospitality tenancy, ground floor cafe and restaurant, art gallery, hotel accommodation, and a rooftop bar.	05/04/2023	Departure from development standards & Contentious development
D/2022/911	169-173 Darlinghurst Road DARLINGHURST NSW 2010	Removal of the existing LED panel containing digital advertising signage and installation of a new LED panel containing digital advertising signage.	05/04/2023	Departure from development standards
D/2022/831	349 Liverpool Street DARLINGHURST NSW 2010	Demolition of the existing residential flat building, tree removal, excavation and construction of a new residential flat building with 7 storeys, 3 basement levels, 15 car parking spaces, 14 apartments, rooftop communal and private open space, and associated landscape works.	05/04/2023	Departure from development standards

Application number	Address	Description	Meeting target	Reason for LPP determination
D/2022/456	1 Onslow Place ELIZABETH BAY NSW 2011	Demolition of existing building on site and construction of a new seven storey residential flat buildings comprising 6 dwellings and two basement levels. The application is Integrated Development requiring the approval of Water NSW under Water Management Act, s90(2).	05/04/2023	Sensitive development. SEPP65

List current as at 27 September 2022.

Attachment B

<p>Appeals Related to the Local Planning Panel</p>

Appeals Related to the Local Planning Panel

New appeals filed				
Application number	Address	Description	Appeal date	Status
D/2022/476	23A Hickson Road MILLERS POINT	Designated Development application for the installation of a mooring facility with associated services and access ramps. The application is an Integrated DA requiring approval under the Heritage Act 1977, Fisheries Management Act 1994 and Water Management Act 2000.	29/07/2022 Appeal on day 66 of assessment	Listed for s34 conference on 14/11/22.
D/2022/199	20-28 Munni Street NEWTOWN	Construction of childcare centre	15/09/2022	Listed for directions on 11/10/22.

12

Ongoing appeals				
Application number	Address	Description	Appeal date	Status
D/2021/1110	304-310 Victoria Street DARLINGHURST	Change of use of existing 'Morgans Hotel' to mixed use development to include 10 x residential units and ground floor commercial premises with associated alterations and additions	21/04/2022 Appeal on day 204 of assessment	Listed for hearing on 12-13/12/22.
D/2021/304	93-105 Quay Street HAYMARKET	Alterations and additions to existing building and change of use to a boarding house and retail premises.	8/07/2021 Appeal on day 100 of assessment	Section 56A appeal against the decision of Commissioner. Listed for hearing 14/12/22.

Ongoing appeals				
D/2022/319	30A-34 Brougham Street , POTTS POINT	Demolition of the existing building, excavation and remediation of the site, and construction of a new part 6, part 7 storey residential flat building with 14 apartments, 2 basement levels, 14 car parking spaces and associated landscape works.	28/06/2022 Appeal on day 77 of assessment	Listed for s. 34 conciliation conference on 14/10/22

Completed appeals				
Application number	Address	Description	Appeal date	Status
D/2020/20	503-505 Elizabeth Street SURRY HILLS	Demolition of existing buildings and construction of a new 7 storey mixed use development	8/12/2021 Appeal 357 days after determination	30/06/2022 Appeal upheld after s. 34 agreement on amended plans and conditions
D/2019/1135	13-15 Kellett Street POTTS POINT	Use of the ground level as a restricted premises (adult entertainment premises) in conjunction with the existing licensed bar and restaurant known as 'Dollhouse Nightspot', with hours of operation of 24 hours, 7 days per week. The application includes alterations to the external rear courtyard wall to provide emergency egress.	17/02/2020 Appeal 10 days after determination	17/12/21 - Appeal allowed. Consent granted on agreed conditions

List current as at 20 September 2022.

Attachment C

**List of Modification Applications Lodged on
Local Planning Panel Approvals**

List of Modification Applications lodged on Local Planning Panel Approvals

Application number	Address	Description	Lodgement date	Status	Decision date
D/2021/493/A	17-31 Cowper Street GLEBE NSW 2037	Section 4.55 (1A) modification to vary the floor levels across the two residential flat buildings. No change is proposed to the approved building height or envelope.	12/04/2022	Approved with Conditions	26/05/2022
D/2015/941/B	895-899 Bourke Street WATERLOO NSW 2017	S4.55(2) - Modification of the existing consent for the demolition of existing structures on site and the construction of a mixed use building containing affordable housing dwellings above car parking spaces and a commercial tenancy. The proposal involves amending approved drawings to show increased setbacks to the southern and western street boundaries, increasing the building height, new pedestrian entry to the west, reducing parking provision and other changes to the building facades.	14/04/2022	Under Assessment	
D/2009/1424/E	55A Leichhardt Street GLEBE NSW 2037	Section 4.55(2) modification of consent for 'Bellevue Cottage by Antoine' cafe/restaurant to continue the trial capacity of 120 patrons between 7:00am and 6:00pm Monday to Sunday; and continue the trial hours of operation between 10:00pm and 11:00pm Monday to Sunday for indoor areas and between 8:00pm and 10:00pm Monday to Sunday for outdoor areas. The approved base capacity is 60 patrons and base hours of operation are 6.30am to 10:00pm Monday to Sunday for indoor areas and 7:00am to 8:00pm Monday to Sunday for outdoor areas.	19/04/2022	Approved with Conditions	27/05/2022
D/2021/1325/A	49A-57 Pitt Street SYDNEY NSW 2000	Section 4.55(1A) modification of consent to approved hoarding. Proposed modifications include the provision of a additional site sheds above the existing approved sheds and the deletion of Condition 7(a)(x) relating to fire risk reduction.	22/04/2022	Approved with Conditions	20/07/2022
D/2018/1473/B	123 Pitt Street SYDNEY NSW 2000	S4.55(2) - Modification of consent to continue trial period for extended trading hours of outdoor dining area from 10pm to 12am	03/05/2022	Approved with Conditions	08/06/2022

Application number	Address	Description	Lodgement date	Status	Decision date
D/2020/1409/B	634 Botany Road ALEXANDRIA NSW 2015	S4.55(2) - Modification of consent to modify the apartment mix and other various design changes.	16/05/2022	Approved with Conditions	31-Aug-2022
D/2020/917/A	21 Missenden Road CAMPERDOWN NSW 2050	Section 4.56 Modification of consent to amend the wording of Condition 28 (Boundary Windows Covenant)	19/05/2022	Approved with Conditions	25/05/2022
D/2018/222/E	44-48 O'Dea Avenue WATERLOO NSW 2017	Section 4.55(1A) modification of consent to modify the structural grid, the overall building height, and other design changes	20/05/2022	Approved with Conditions	05/08/2022
D/2020/377/C	11-13 Greenknowe Avenue ELIZABETH BAY NSW 2011	Section 4.55(2) modification of consent for residential flat building. Proposed changes are to amend the approved design relating to Unit 601 and rooftop layout.	27/05/2022	Under Assessment	
D/2017/1073/B	132-138 McEvoy Street ALEXANDRIA NSW 2015	S4.55 (1A) Modification of consent. Modify design recommendations to address BCA compliance matters.	30/05/2022	Withdrawn	12/08/2022
D/2020/297/G	1-11 Oxford Street PADDINGTON NSW 2021	Section 4.55(2) modification of consent for a mixed use development. Proposed changes are to increase the number of hotel rooms from 105 to 109, internal reconfiguration of basement, ground level and hotel uses, minor external modifications including privacy screens, new south facing windows, extension of roof plant area and rooftop skylights and kitchen exhaust.	07/06/2022	Under Assessment	
D/2020/993/A	422-424 Cleveland Street SURRY HILLS NSW 2010	S4.55(1A) - Modification of consent. Removal of deferred commencement conditions relating to Level 4 cantilever and artist in-residence rooms.	28/06/2022	Rejected	28/06/2022

Item 7.**Proposed Schedule of Local Planning Panel Meetings for 2023****File No: X086707****Summary**

In accordance with Division 2.5 Local Planning Panels of the Environmental Planning and Assessment Act 1979, in March 2018 the City of Sydney established a Local Planning Panel to determine development applications not determined under delegation by City staff or by the Central Sydney Planning Committee.

In accordance with clause 15 of the City of Sydney Local Planning Panel Operational Procedures, the Local Planning Panel is required to adopt an annual schedule of dates for Local Planning Panel meetings.

This report requests the Local Planning Panel adopt the draft schedule of Local Planning Panel meetings for 2023.

Recommendation

It is resolved that the Local Planning Panel adopt the draft Schedule of Local Planning Panel Meetings for 2023, as shown at Attachment A to the subject report.

Attachments**Attachment A.** Draft Schedule of Local Planning Panel Meetings for 2023

Background

1. In accordance with Division 2.5 Local Planning Panels of the Environmental Planning and Assessment Act 1979, in March 2018 the City of Sydney established a Local Planning Panel to determine development applications not determined under delegation by City staff or by the Central Sydney Planning Committee.
2. The then Minister for Planning issued a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979 on 23 February 2018 setting operational procedures to ensure local planning panels meet their obligations in the most efficient and effective manner.
3. Operational Procedures specific to the City of Sydney Local Planning Panel were last endorsed by the Panel on 1 September 2021.
4. Section 294 of the Environmental Planning and Assessment Regulation 2000 introduced temporary planning measures which included the requirement that Local Planning Panels must meet by audio or audio visual link during the Covid-19 pandemic.
5. In March 2022, NSW Parliament passed the COVID-19 and Other Legislation Amendment (Regulatory Reforms) Bill 2022 which removed the requirement that Local Planning Panels must meet by audio or audio visual link, and permitted the resumption of in-person meetings.
6. Since 18 May 2022, the City of Sydney of Sydney Local Planning Panel has been holding meetings in person.
7. In accordance with clause 15 of the Operational Procedures, the Local Planning Panel is required to adopt an annual schedule of dates for Local Planning Panel meetings.
8. The draft Schedule of Local Planning Panel Meetings for 2023 (Attachment A) has been prepared on the basis of a three-week meeting cycle.
9. The draft schedule proposes 16 meetings for the calendar year 2023.
10. A three-week meeting cycle is considered appropriate following a review of the number of development applications considered at each meeting in 2021 and 2022.

Relevant Legislation

11. Environmental Planning and Assessment Act 1979.
12. Environmental Planning and Assessment Regulation 2000.
13. City of Sydney Local Planning Panel Operational Procedures.

Critical Dates / Time Frames

14. The Local Planning Panel will adopt an annual schedule of dates for Local Planning Panel meetings in 2023.
15. The commencement time for the public meeting of the Local Planning Panel will be 5.00pm.
16. The 2023 Local Planning Panel meeting dates will be available on the City's website once endorsed.

ANDREW THOMAS

Executive Manager Planning and Development

Eileen Leather, Committee Secretary

Attachment A

**Draft Schedule of Local Planning Panel
Meetings for 2023**

SCHEDULE OF LOCAL PLANNING PANEL MEETINGS FOR 2023

DATE

WEDNESDAY 1 FEBRUARY

WEDNESDAY 22 FEBRUARY

WEDNESDAY 15 MARCH

WEDNESDAY 5 APRIL

WEDNESDAY 26 APRIL

WEDNESDAY 17 MAY

WEDNESDAY 7 JUNE

WEDNESDAY 28 JUNE

WEDNESDAY 19 JULY

WEDNESDAY 9 AUGUST

WEDNESDAY 30 AUGUST

WEDNESDAY 20 SEPTEMBER

WEDNESDAY 11 OCTOBER

WEDNESDAY 1 NOVEMBER

WEDNESDAY 22 NOVEMBER

WEDNESDAY 13 DECEMBER
