CITY OF SYDNEY

13 December 2023

At 5.00 pm

Local Planning Panel

Agenda

1. **Disclosures of Interest**
2. **Confirmation of Minutes**
3. **Development Application: 52-58 William Street Woolloomooloo - D/2022/1354**
4. **Development Application: 82 Wentworth Park Road, Glebe - D/2023/21**
5. **Development Application: 51-53 Wells Street, Redfern - D/2022/792**
6. **Development Application: 175 St Johns Road, Glebe - D/2023/107**
7. **Development Application: 107-109 Darlinghurst Road, Potts Point - D/2022/1107**

CITY OF SYDNEY

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1. Register to speak by calling Secretariat on 9265 9702 or emailing secretariat@cityofsydney.nsw.gov.au before 10.00am 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

Item 1.

Disclosures of Interest

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

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.

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 22 November 2023

Item 3.

Development Application: 52-58 William Street Woolloomooloo - D/2022/1354

File No.: D/2022/1354

Summary

Date of Submission:	4 January 2023
Applicant:	Sam McGough - Urbis
Architect/Designer:	Woods Bagot Architects
Developer:	St Mary's Cathedral College
Owner:	The Trustees of the Roman Catholic Church
Planning Consultant:	Sam McGough - Urbis
Heritage Consultant:	Alexandria Cornish - Urbis
Cost of Works:	$19,731,219.00
Zoning:	The site is located within the MU1 - Mixed Use zone. The proposed development is for change of use of part of the basement, lower ground, ground and first floor of the existing building for the purpose of an educational establishment and associated alterations and additions. The existing commercial uses and associated plant on the remaining parts of the basement, lower ground, ground and the upper floors will be retained. This is permissible with consent in the zone under the Sydney Local Environmental Plan 2012.
Proposal Summary:	The application seeks development consent for change of use of the basement, lower ground floor, ground floor and level 1 of the existing building to an educational establishment. The purpose of the application is to facilitate an extension of the existing St Mary's Cathedral College for up to 300 students at the new campus.

The proposal includes associated fitout and alteration works, heritage conservation works, alterations to the at grade car parking area at the rear, and construction of a raised landscaped terrace area over to accommodate 75 students at any one time. Proposed hours of operation of the educational establishment are 7am to 6pm Monday to Friday.

The application is referred to the Local Planning Panel for determination as it is 'contentious development', being the subject of over 25 unique submissions by way of objection.

The application was notified between 6 January 2023 and 2 February 2023 in accordance with Schedule 1 of the Environmental Planning and Assessment Act, 1979.

The City received 63 submissions objecting to the proposal during and after this notification period. Submissions predominantly raised concerns around potential traffic impacts, noise, safety, visual privacy, construction impacts and waste collection.

Following an assessment of the application, the applicant was requested to address a number of issues relating to the proposed floor space ratio of the building, traffic impacts, contamination, noise and privacy from the raised outdoor space, heritage issues, landscaping, public domain, canopy cover, and waste management.

Amended drawings were received on 30 June 2023 which included internal amendments, a revised design of the outdoor play area and it was proposed that all pick-up and drop-off of students was to occur from the existing St Mary's Cathedral College campus.

The amended drawings were re-notified between 7 August 2023 and 22 August 2023.

The City received 13 submissions objecting to the amended proposal during and after this notification period. Concerns were raised regarding traffic impacts, security issues and privacy impacts.

The proposed height of the new additions to the building comply with the maximum height control of 40 metres under Clause 4.3 of the Sydney Local Environmental Plan 2012.

The proposed density of the development complies with the maximum floor space ratio (FSR) control of 5:1 under Clause 4.4 of the Sydney Local Environmental Plan 2012.

As a result of the modifications made to the proposed development and subject to conditions, the amended proposal presents an improved outcome and comprises a satisfactory response to the conditions of the site and locality. The amended proposal is generally acceptable with regard to the applicable planning controls, results in a form and scale that achieves the desired future character of the area and exhibits design excellence.

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) State Environmental Planning Policy (Biodiversity and Conservation) 2021 (Biodiversity and Conservation SEPP)

(iii) State Environmental Planning Policy (Industry and Employment) 2021 (Industry and Employment SEPP)

(iv) State Environmental Planning Policy (Transport and Infrastructure) 2021 (Transport and Infrastructure SEPP)

(v) State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience and Hazards SEPP)

(vi) Sydney Water Act, 1994

(vii) Sydney Local Environmental Plan 2012 (Sydney LEP 2012)

(viii) Sydney Development Control Plan 2012 (Sydney DCP 2012)

(ix) City of Sydney Guidelines for Waste Management in New Developments

(x) City of Sydney Development Contributions Plan 2015

Attachments:

A. Recommended Conditions of Consent

B. Selected Drawings

Recommendation

It is resolved that consent be granted to Development Application Number D/2022/1354 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

(A) The proposal satisfies the objectives of the Environmental Planning and Assessment Act, 1979, in that, subject to the imposition of conditions as recommended, it achieves the objectives of the planning controls for the site for the reasons outlined in the report to the Local Planning Panel.

(B) The development, subject to conditions, is consistent with the objectives of the MU1 Mixed Use zone.

(C) Subject to the recommended conditions of consent, the proposed development achieves acceptable amenity for the existing and future occupants of the subject and adjoining sites.

(D) The proposal complies with the maximum height of buildings development standard in Clause 4.3 of the Sydney Local Environmental Plan 2012 and the design of the development responds appropriately to the scale of surrounding buildings.

(E) The proposed density of the development complies with the maximum floor space ratio development standard in Clause 4.4 of the Sydney Local Environmental Plan 2012.

(F) The development, subject to conditions, exhibits design excellence and satisfies the provisions of Clause 6.21C of the Sydney Local Environmental Plan 2012.

(G) Subject to conditions, the proposal generally satisfied the relevant strategy, objectives and provisions of the Sydney Local Environmental Plan 2012 and the Transport and Infrastructure SEPP.

Background

The Site and Surrounding Development

1. The site is located at 52-58 William Street, Woolloomooloo and accommodates five allotments, legally described as Lot 1 in Deposited Plan 122904, Lot 1 in Deposited Plan 62717, Lot 1 in Deposited Plan 114669, Lot 2 in Deposited Plan 1046917 and Lot 1 in Deposited Plan 1046917.

2. The site is irregular in shape with area of approximately 1,483 square metres. It has a primary street frontage of 34.5 metres to William Street and a secondary street frontage of 38.5 metres to Busby Lane. The site is located close to the intersection of William Street and Boomerang Place which becomes Yurong Parkway.

3. The site contains a 9-storey commercial building. The building accommodates basement tenancies, plant and storage, a ground floor lobby entrance, a ground floor café tenancy, and six storeys of commercial tenancies above.

4. The site is a local heritage item (item number 2198) known as a 'Commercial building "Peejays Building" including interior'. It is not located within a heritage conservation area.

5. The surrounding area is characterised by a mixture of land uses, primarily being high rise residential and commercial. To the immediate north and west of the site is a 12 and 15 storey residential development known as the 'Park Lane Towers' at 1 Boomerang Place.

6. To the east of the site along William Street is a shop-top housing development known as the 'Paramount' complex at 60 - 70 William Street which accommodates ground level commercial uses and residential uses above. To the east across Busby Lane are mixed use commercial and office buildings.

7. To the south of the site, across William Street is a row of three-storey buildings accommodating commercial, retail and food and drink uses.

8. The rear portion of the site is located within the Cathedral Street Area locality (DCP map 2.4.2) and the front portion of the site is located within the William Street locality (DCP map 2.4.1). The site is identified as being subject to flooding.

9. A site visit was carried out on 2 March 2023. Photos of the site and its surroundings are provided below:



Figure 1: Aerial view of the site (shown outlined in red) and its surroundings

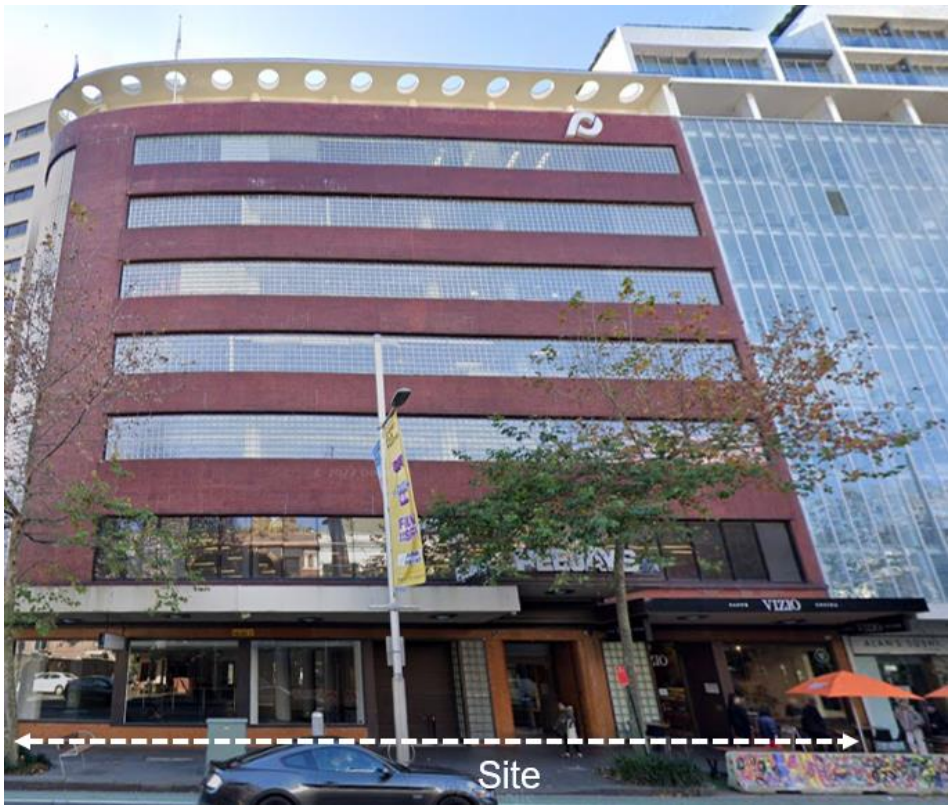


Figure 2: The site viewed from William Street



Figure 3: The site viewed from the corner of Boomerang Place and William Street, looking east



Figure 4: View south towards the rear of the subject site from the existing car park



Figure 5: View north over the existing subject car park (proposed location of raised outdoor space)



Figure 6: View west across the site from Busby Lane towards 1 Boomerang Place



Figure 7: View southeast towards the rear of 60 - 70 William Street from the subject car park



Figure 8: View east towards the mixed-use commercial buildings across Busby Lane from the subject car park



Figure 9: Internal view of subject building.

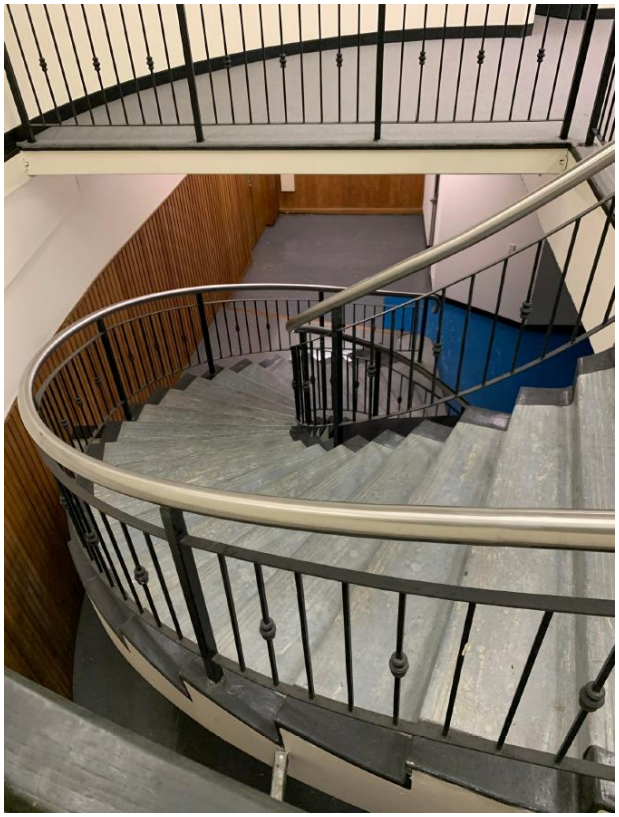


Figure 10: View of existing staircase from the basement to lower ground level

History Relevant to the Development Application

Relevant Applications

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

    (a) **D/2022/1371** - On 16 February 2023 development consent was granted for internal alterations to Suite 402 for an office premises on level 4.

    (b) **PDA/2022/245** - A pre-development application (DA) request to Council was made on 9 November 2022 regarding a proposal for change of use of the ground level and level 1 for educational establishment. Council provided pre-DA advice on 5 December 2022 regarding the proposed use, heritage, active frontage, a signage strategy, transport impacts, sustainability requirements, waste management, social impact statement, contamination, acoustic privacy, landscaping and crime prevention through environmental design.

    (c) **D/2019/341** - On 30 January 2020 development consent was granted for internal and external alterations and use of tenancy G02 on the ground floor as a Snap Fitness Gymnasium including signage.

    (d) **D/2018/303** - On 17 April 2018 development consent was granted for use and fitout of suite 202 on level 2 as an office.

    (e) **D/2017/499** - On 3 May 2017 development consent was granted for internal fitout of the existing commercial tenancy on level 4 and office use.

    (f) **D/2017/216** - On 14 March 2017 development consent was granted for internal fitout and use of part of level 5 as an office premises.

    (g) **D/2016/714** - On 5 October 2016 development consent was granted for alterations and use of shop G01 on the ground level as a café including signage. This consent was later modified.

    (h) **D/2013/1431** - On 30 September 2013 development consent was granted for internal alterations to shop G02 including installation of a new timber floor, security trellis doors and window grille.

    (i) **D/2013/1430** - On 24 October 2013 approval was granted for temporary signage to shopfront windows on the ground floor (shop G02) for a time period of 3 months.

    (j) **D/2012/950** - On 17 August 2012 development consent was granted for the fitout of a new commercial preparation kitchen within the lower ground floor of the building.

    (k) **D/2011/1425** - On 19 December 2011 development consent was granted for the installation of 4 pergola shade structures to cover the ground level parking spaces at the rear of the site facing Busby Lane.

Compliance Action

11. The site is not subject to current compliance action.

Amendments

12. Following a preliminary assessment of the proposed development by Council Officers a stop the clock letter requesting further information regarding the calculation of gross floor area and the floor space ratio of the building was sent on 6 January 2023.

13. The applicant responded to the request on 17 January 2023 by providing further clarification and amended gross floor area plans.

14. On 30 January 2023, Transport for NSW requested that Council seek clarification from the applicant in relation to the requirement for a school zone and requested that the existing car park be designed to facilitate pick-up and drop-off movements.

15. Following a detailed assessment by Council, a request for additional information and amendments was sent to the applicant on 10 March 2023 regarding Transport for NSW traffic management concerns, drop off and pick up activities, site contamination, noise, privacy and landscaping of the outdoor space, solar impacts, heritage issues, bicycle parking, public domain information and waste management.

16. The applicant responded to the request on 30 June 2023 by providing amended architectural and landscape drawings, a detailed site investigation, an updated traffic and parking statement confirming that all drop-offs and pick-ups would occur at the existing main campus, an updated noise report and public domain civil plans.

17. A further request for information was sent to the applicant on 12 September 2023. Further information and clarification were sought around noise management and privacy impacts of the raised outdoor open space, solar access and availability of bicycle parking.

18. The applicant responded to the request on 3 October 2023 by providing revised architectural drawings, a revised noise impact assessment and an amended operational management plan.

Proposed Development

19. The application seeks consent for change of use of the basement, lower ground floor, ground floor and level 1 of the existing building to an educational establishment.

20. The proposed change of use will facilitate an extension of St Mary's Cathedral College located at 2 St Marys Road (primary campus) for up to 300 senior school students and 15 staff.

21. The proposed educational facilities on the site (the William Street campus) will accommodate relief classes (performance, liberal arts and theory classes) for senior school students as part of the flexible timetable education offering of the school. The primary campus and the William Street campus form part of one school which shares facilities and delivers the education offering for students.

22. Proposed hours of operation of the William Street campus are 7am to 6pm Monday to Friday. All pick up and drop offs of students are proposed to occur at the existing St Mary's Cathedral College campus, located 300m from the site at 2 St Mary's Road, Sydney.

23. The proposal includes associated internal fitout and alteration works for the purpose of general learning, specialised learning and administration spaces. Alterations also include changes to the at grade car parking area at the rear, and construction of a raised landscaped play space area over to accommodate 75 students at any one time. Proposed hours of the outdoor open space are from 10am to 2pm Monday to Friday.

24. Specific details of the proposed development are provided under each of the headings provided below.

Basement

(a) Demolition works to remove existing commercial layout

(b) Internal alterations to include:

(i) A multi-purpose performance space

(ii) Fitness/dance studio with dedicated changing rooms

(iii) End of Trip facilities, including showers and lockers

(iv) Accessible bathroom and shower

(v) Dedicated storage area

(c) Retain the original internal elliptical staircase and upgrade balustrade to ensure National Construction Code compliance

(d) Existing plant and main switch room to remain for existing commercial use.

Lower ground

(e) Demolition works to remove the existing commercial layout

(f) Internal alterations to include:

(i) General learning spaces

(ii) Bathrooms including one accessible bathroom

(iii) End of Trip facilities dedicated for staff use, including lockers and an accessible shower

(iv) Reinstatement of the existing street pavement lights along the site frontage as per the original design

(v) Provision of new access to the car park at the rear of the site with metal steps

(vi) Reinstatement of the original void at lower ground and construction of a new elliptical staircase providing access from lower ground to ground level

(vii) Existing internal loading dock and storage rooms to remain for existing commercial use

(g) External works to the lower ground level at the rear include:

(i) Demolition of existing car park shade structures

(ii) 6 staff/ employee bicycle parks

(iii) Reconfiguration of the existing car park to retain 10 commercial car spaces for existing tenants

(iv) New waste store, bulky waste and loading area

(v) Landscaping

Ground level

(h) Demolition works to remove existing commercial layout

(i) Internal alterations to develop the lobby/ entrance into the proposed school including:

(i) An administration area located at the main student entry off William Street

(ii) Flexible learning space

(iii) Restore existing internal glass floor light

(iv) Provision of a separate student, commercial and café entry from William Street

(v) Construction of a new elliptical staircase in the original design location providing access from ground level to level 1

(j) Reinstate existing street pavement lights on William Street

(k) Relocation of the sprinkler and hydrant booster to the southern façade elevation

(l) Construction of a new raised outdoor open space area for use by up to 75 students at one time including landscaping, shade structures and seating.

(m) The existing café on the eastern side of the ground floor will remain and does not form part of this DA.

Level 1

(n) Demolition works to remove existing commercial layout

(o) Internal alterations to level one to include:

(i) Open learning space

(ii) Staff room

(iii) An accessible bathroom

(iv) Repair of the dome skylight which provides light to the ground floor below

25. Plan, elevation, section and axonometric drawing extracts of the proposed development are reproduced in the figures provided below.

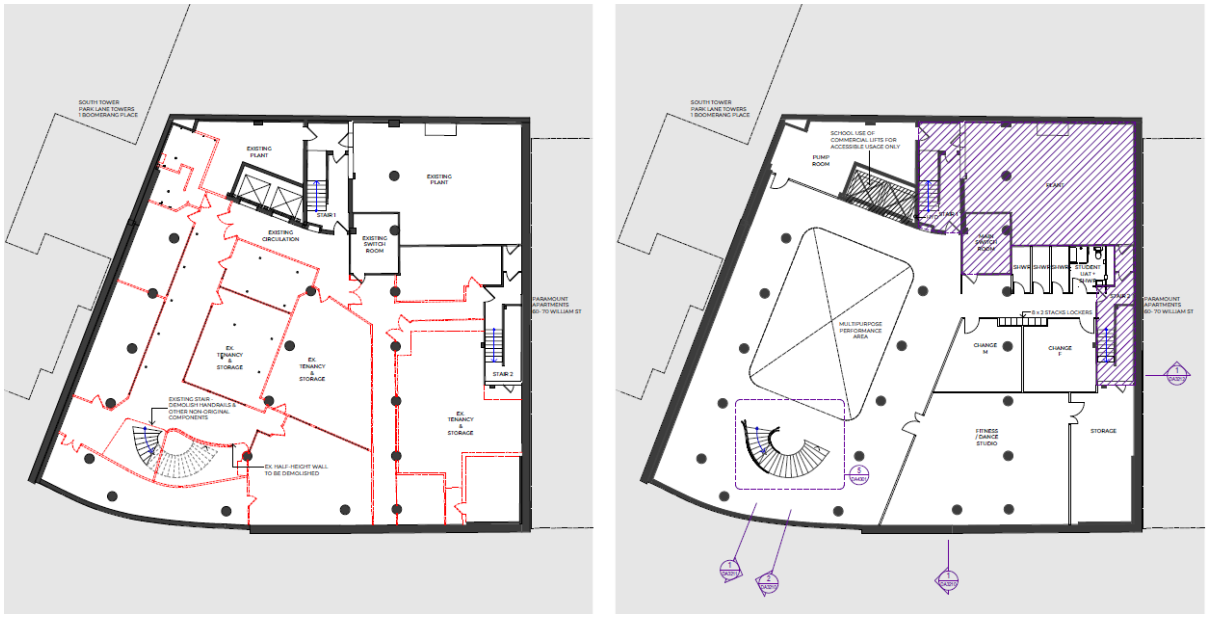


Figure 11: Proposed internal basement demolition (left) and proposed basement floorplan (right)

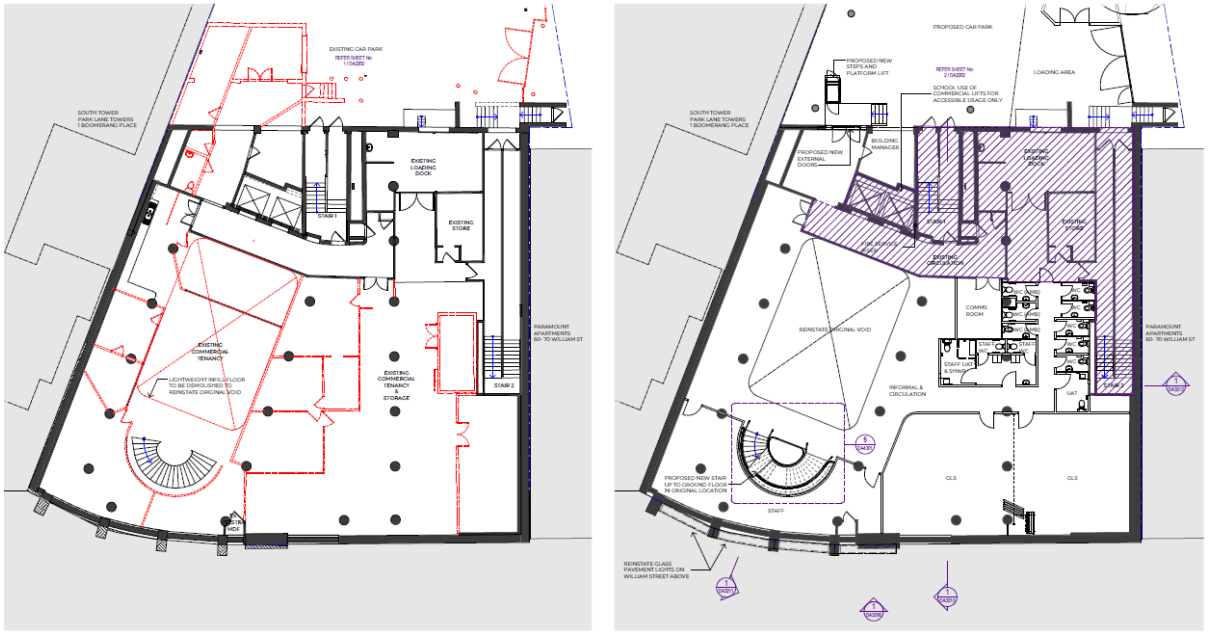


Figure 12: Proposed internal lower ground demolition (left) and proposed lower ground floorplan (right)

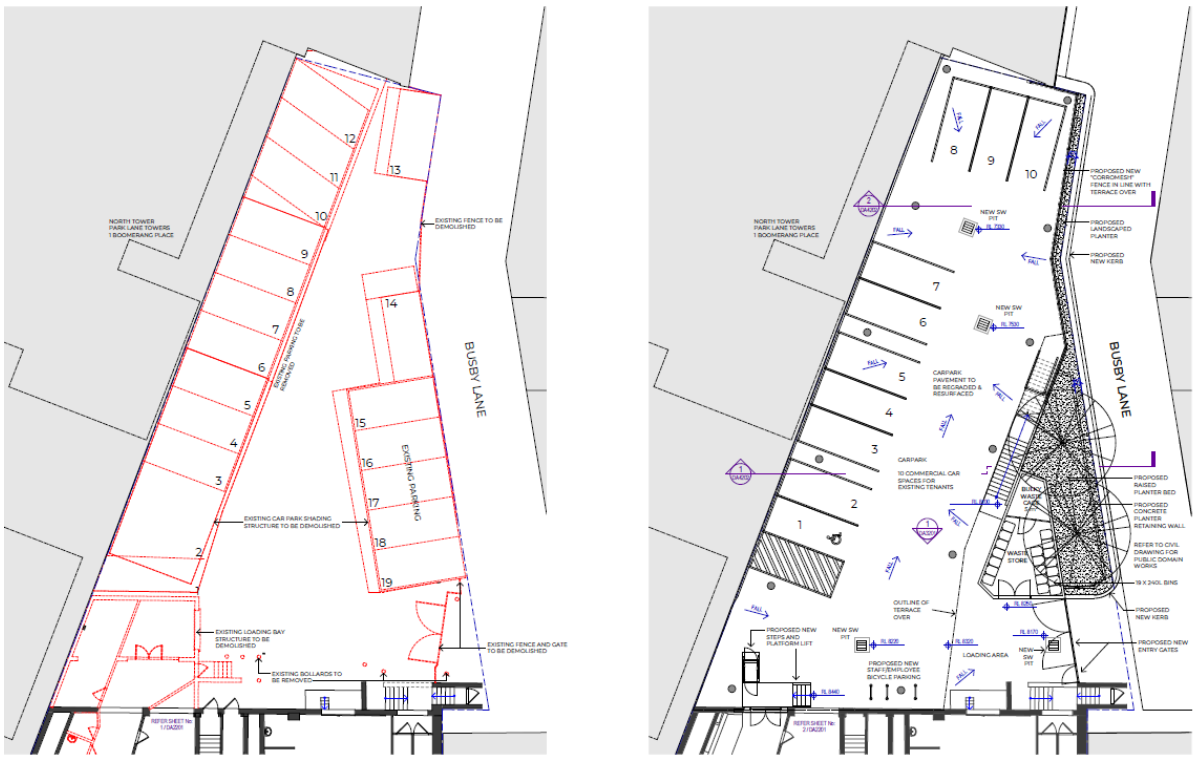


Figure 13: Proposed external lower ground demolition (left) and proposed external lower ground/ carpark plan (right)

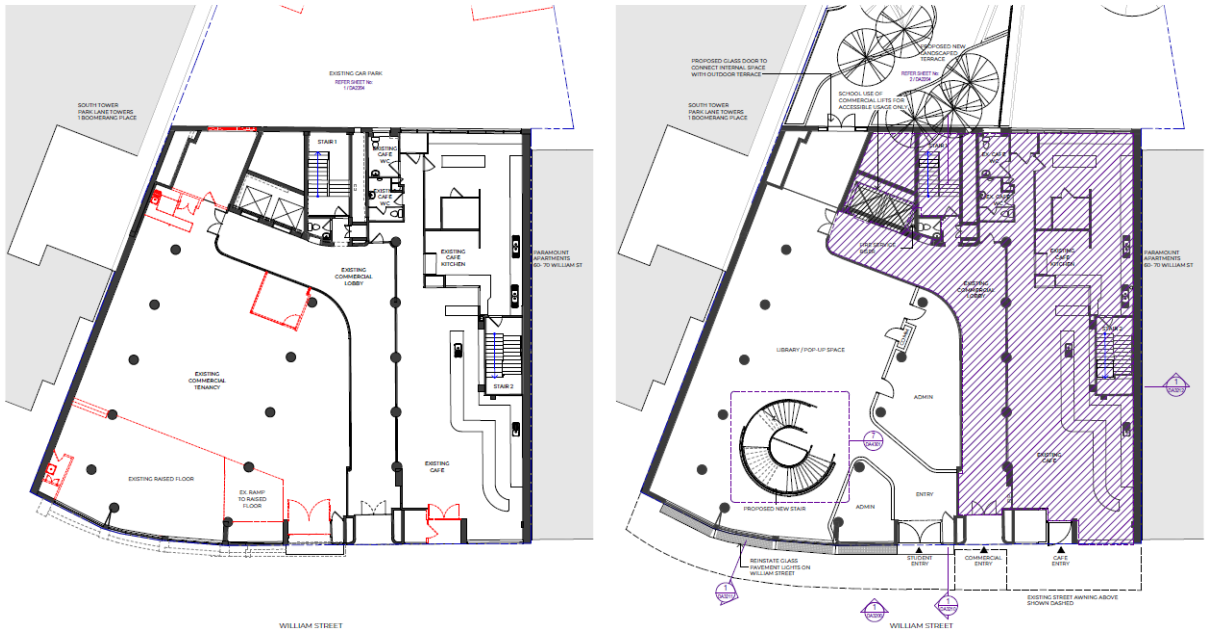


Figure 14: Proposed ground floor demolition (left) and proposed ground floor plan (right)



Figure 15: Proposed external ground floor demolition (left) and proposed external ground floor plan of new raised outdoor space (right)

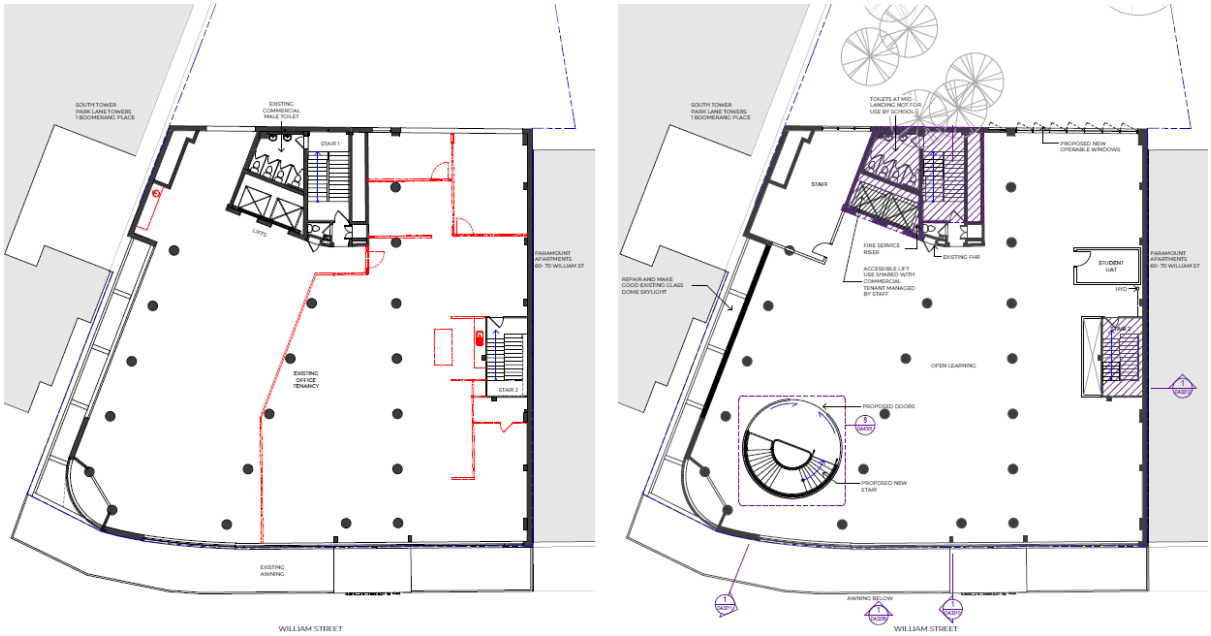


Figure 16: Proposed level 1 demolition (left) and proposed level 1 floor plan (right)

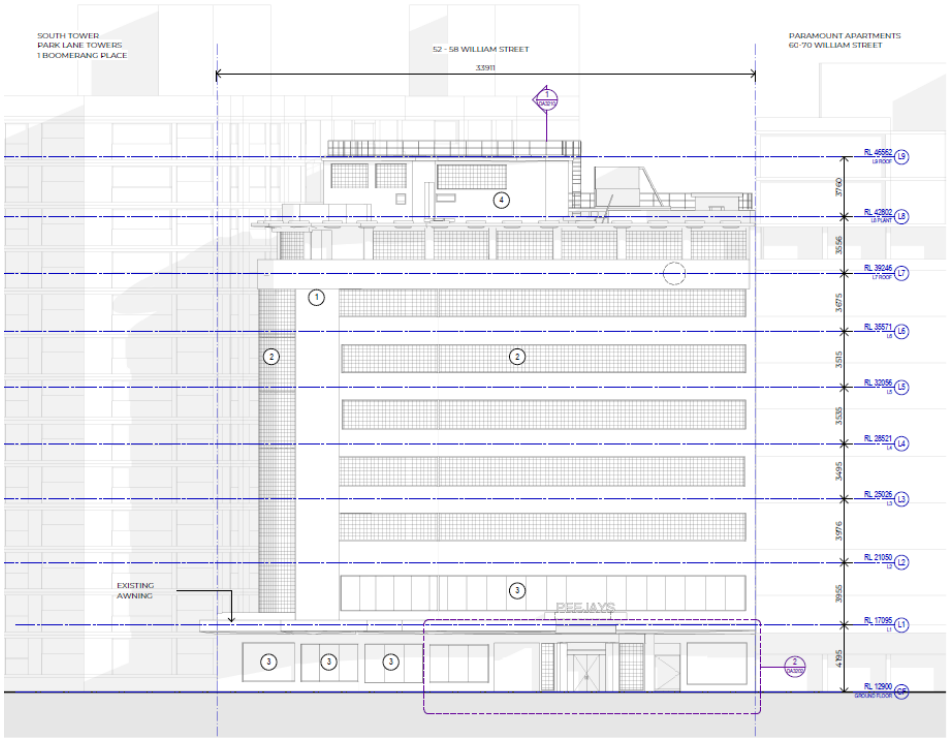


Figure 17: Proposed south elevation

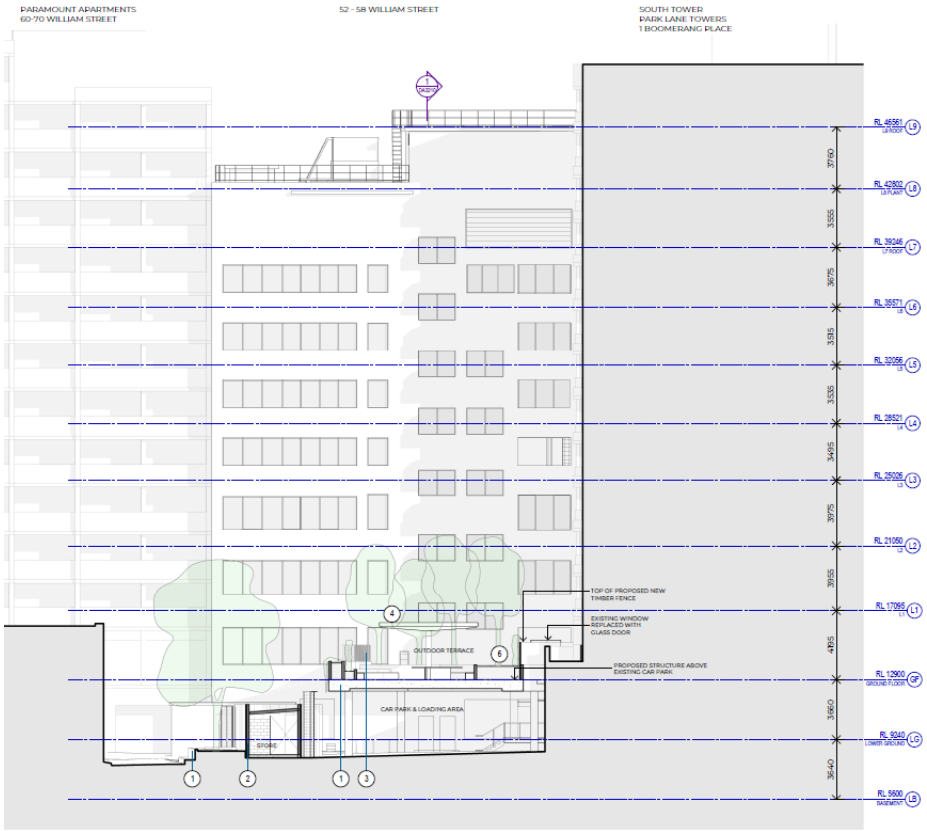


Figure 18: Proposed north elevation of raised outdoor space

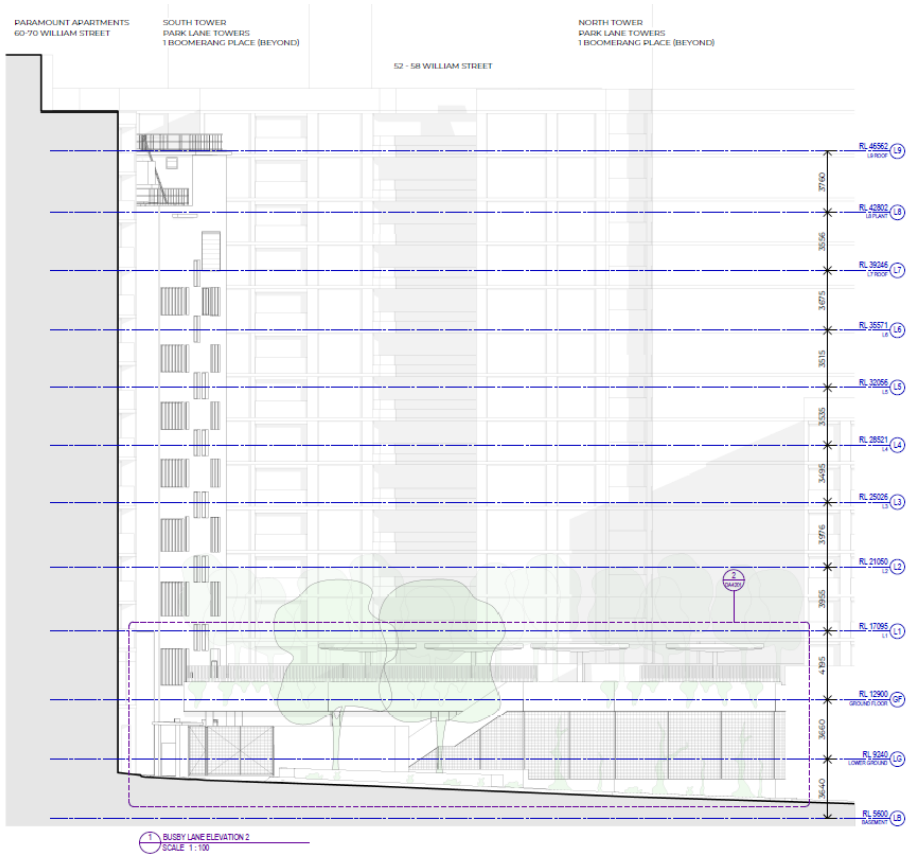


Figure 19: Proposed Busby Lane elevation of raised outdoor space

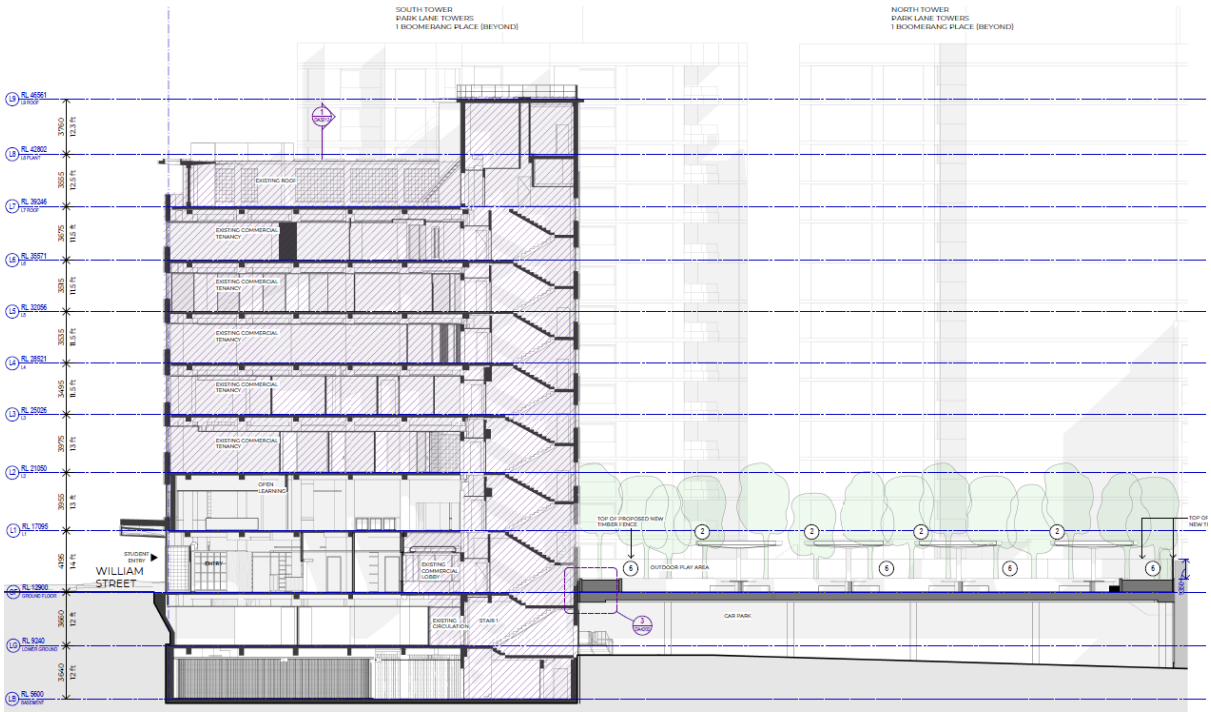


Figure 20: Proposed section 1

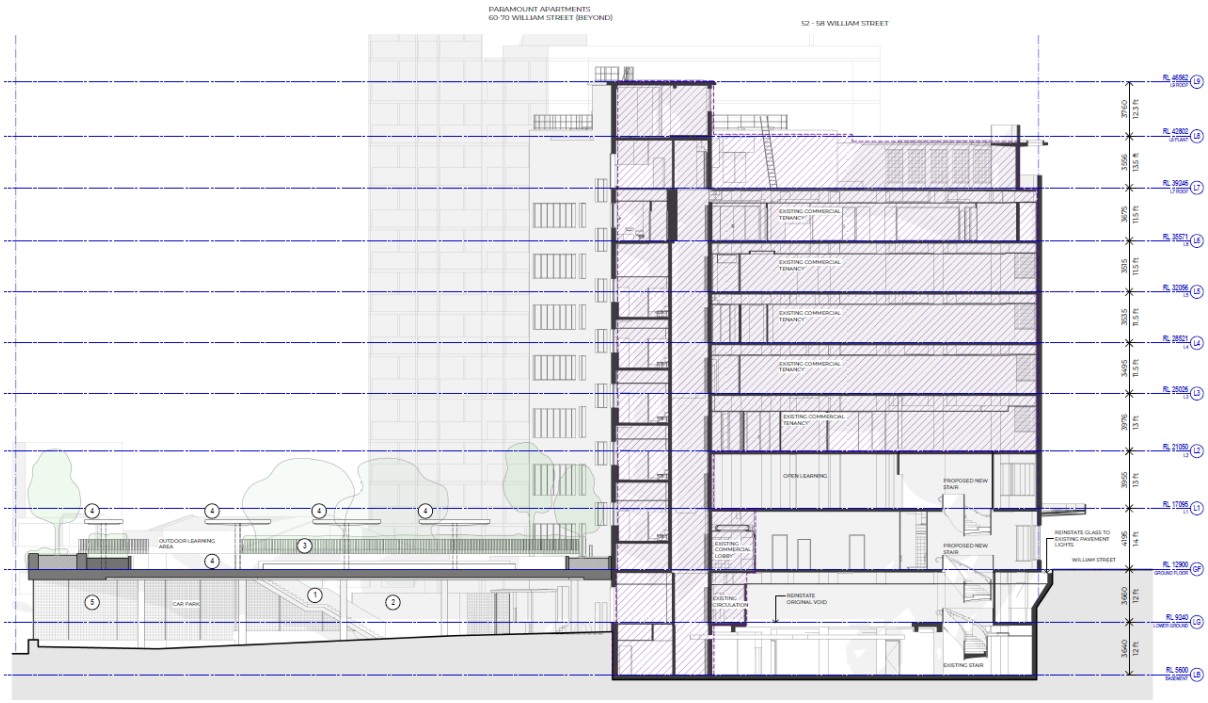


Figure 21: Proposed section 2

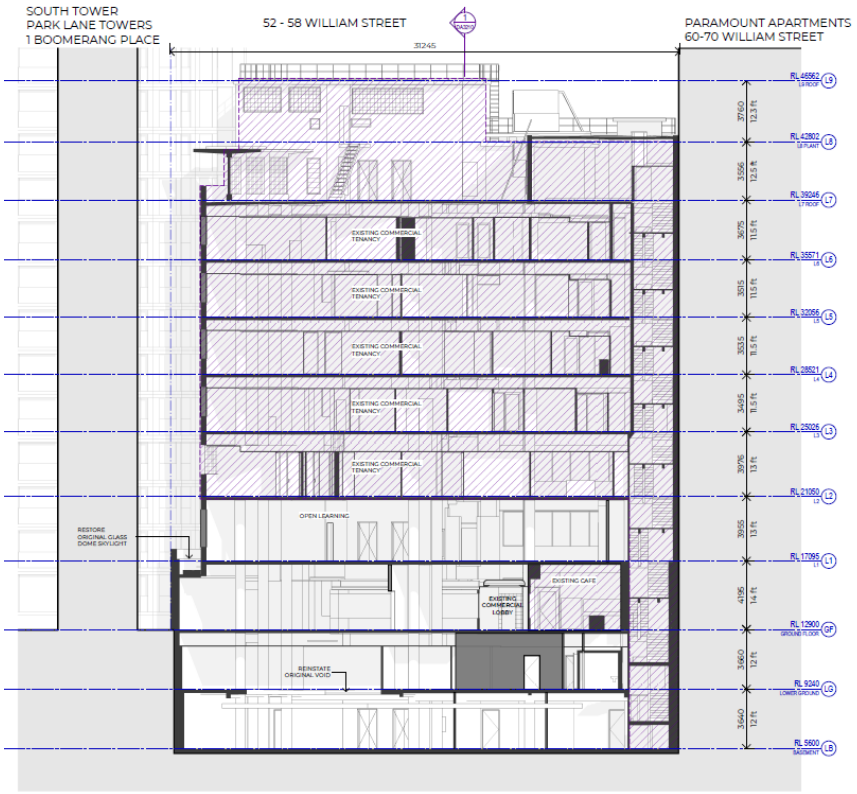


Figure 22: Proposed section 3

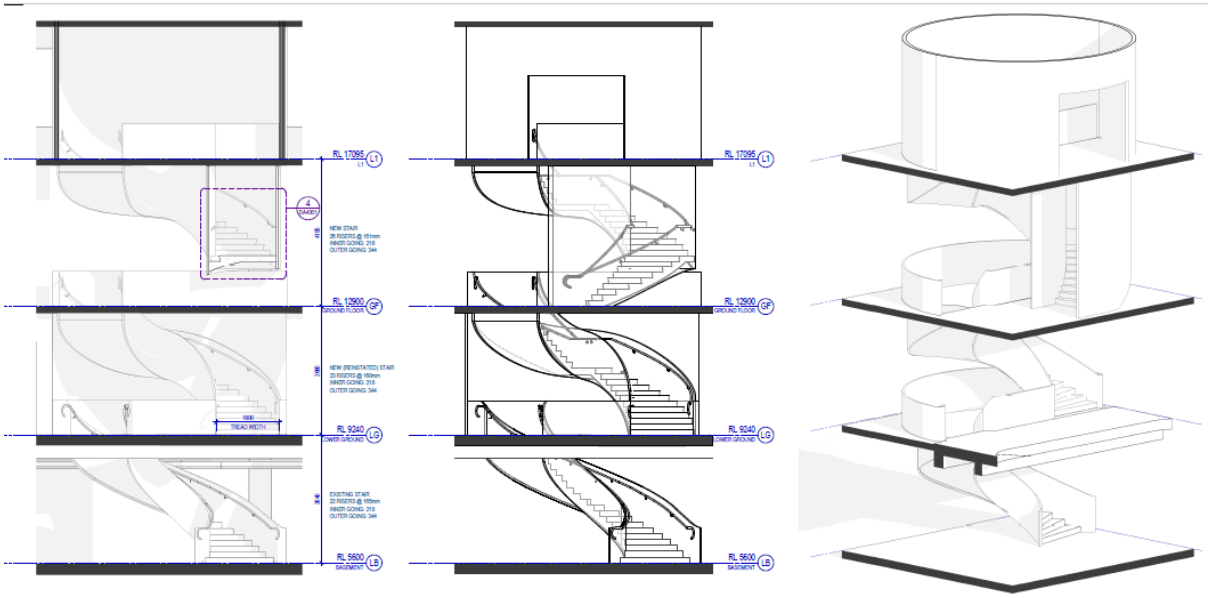


Figure 23: Proposed internal stair section, elevation and axonometric

Assessment

26. 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

32. The aim of Chapter 4 of the Resilience and Hazards SEPP 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.

33. The proposal involves change of use from commercial premises to an educational establishment, which is a more sensitive use.

34. Following a request for further information by Council, a Detailed Site Investigation report was submitted which provided visual observation and analytical soil results for the site. An interim letter of advice prepared by a NSW EPA Accredited Site Auditor was also received.

35. The Detailed Site Investigation report identified the following:

    (a) There is a decommissioned underground storage tank within the car park boundary. There is no information available about the tanks size or contents.

    (b) Indoor ambient air monitoring within the basement did not detect any hydrocarbons.

    (c) The removal of the tank may be required during the construction phase and the installation of ground water wells across the site may be required to monitor ground water flow north towards the harbor.

(d) Analysis of the soil did not detect asbestos, but the presence of asbestos could not be ruled out.

(e) Contamination above the adopted criteria was detected from a sample collected of a black ashy material in a bore hole at depths between 0.3 and 0.4m. As the impacted material is currently kept below a hardstand and will remain covered with a hardstand (not exposed), the risk to current and future site users is low.

(f) Limited samples from natural material to assess the potential presence of acid sulfate soils were collected and the potential presence of acid sulfate soils cannot be ruled out.

36. Following review of the Detailed Site Investigation, the Site Auditor recommended the following within their interim letter of advice:

(a) Removal of the existing tank and validation of its soils should be completed during the construction activities.

(b) A Construction Environment Management Plan (CEMP) should be prepared prior to commencement of any excavations that includes an Unexpected Find Protocol to manage any risk due to potential unexpected finds on the site.

(c) A Long-term Environmental Management Plan is required to manage the contaminated material left on the site, ensure maintenance of the hardstand and control of any future earthworks in the area.

(d) If fill material is to be removed from the site to landfill, it must be carried out in accordance with NSW EPA (2014) - Waste classification guidelines.

(e) Any imported material brought onto the site should be validated as being suitable for the intended land use before being imported onto the site.

37. The Council's Health Unit has reviewed the information provided and advised that they are satisfied the tank can be removed, and the site can then be validated. The Council's Health Unit has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.

38. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

State Environmental Planning Policy (Transport and Infrastructure) 2021

39. The proposed educational establishment is subject to the provisions of Chapter 3 of the Transport and Infrastructure SEPP relating to educational establishments.

40. The site is zoned MU1 Mixed Use by the Sydney LEP 2012, which is a 'prescribed zone' for the purposes of Part 3.4 of the Transport and Infrastructure SEPP.

41. Development for the purpose of a school may be carried out by any person with development consent on land in a prescribed zone pursuant to Section 3.36(1) of the Transport and Infrastructure SEPP.

42. Section 3.36(6)(a) of the SEPP requires that before determining a development application for the purpose of a school, the consent authority must take into consideration:

(a) The design quality of the development when evaluated in accordance with the design quality principles set out in Schedule 8, and

(b) whether the development enables the use of school facilities (including recreational facilities) to be shared with the community.

43. The evaluation of the proposed development against the design quality principles set out in Schedule 8 of the SEPP is discussed below.

Provision	**Compliance**	**Comment**
Principle 1 - context, built form and landscape	Yes	The proposed development integrates landscaping into the design of the outdoor open space area to enhance on-site amenity, contribute to the streetscape and mitigate negative impacts on neighbouring sites. The proposal also seeks to conserve the significance of the local heritage listed site by reinstating original building elements.
Principle 2 - sustainable, efficient, and durable	Yes	The proposed works have been designed to meet the future requirements of St Mary's Cathedral College to expand the school campus. A Sustainability Report was submitted with the application outlining the sustainability initiatives and commitments for the proposed school, particularly relating to energy and water efficiency.
Principle 3 - accessible and inclusive	Yes	The proposed works will provide improved internal circulation within the site through reinstatement of the heritage staircase. The access point to the open space area is at grade and the open space area will be available for accessible use. The existing lifts will be available for accessible use which is to be managed by staff as outlined in the submitted operational management plan for the development.
Principle 4 - health and safety	Yes	Crime Prevention Through Environmental Design measures have been incorporated into the design to

Provision	Compliance	Comment
		ensure the school provides a safe environment. The ground floor entrance is clearly visible and includes large windows along the site frontage for passive surveillance of William Street. Lighting to the exterior of the building is proposed to meet relevant Australian Lighting Standards.
Principle 5 - amenity	Yes	The proposal involves the adaptive reuse of part of the existing building for an educational establishment. The development has been designed to contain pleasant and engaging spaces for use by students and staff. The designs incorporate collaborative and creative learning spaces including a multi-purpose performance area and fitness/ dance studio in the basement. The library and open learning spaces will be provided with natural sunlight and ventilation through existing windows. The raised outdoor area provides an outdoor learning and play area with good access to sunlight. Visual and acoustic privacy to adjoining properties is provided through soft landscaping, fencing and the inclusion of noise attenuated shelters to the outdoor area.
Principle 6 - whole of life, flexible and adaptive	Yes	A range of multi-use areas are proposed within the building for students and staff, allowing for a flexible and adaptive learning environment.
Principle 7 - Aesthetics	Yes	The proposed development includes the reinstatement of several original heritage features of the building which will improve the aesthetics of the building and will also contribute to the sense of identity of the neighbourhood. Quality landscaping is proposed to the raised outdoor area which will provide a landscape setting that is aesthetically pleasing for students and neighbouring properties.

Provision	Compliance	Comment
Section 3.36(6)(b) - Does the development enable the use of school facilities (including recreational facilities) to be shared with the community?	Yes	The development provides an open library/ pop up area on the ground level. Any use by the community of this area would be subject to a future development application.

44. The development is generally acceptable when assessed against the above stated provisions and the Transport and Infrastructure SEPP.

Section 3.58 – Traffic-generating development

45. The application is subject to section 3.58 of the Transport and Infrastructure SEPP as the proposal is for an educational establishment which is able to accommodate more than 50 students and involves a new premises.

46. The application was referred to Transport for NSW who requested further information regarding traffic management at pick-up and drop-off times. In response, the applicant amended the application so that all student pick-ups and drop-offs would occur from the existing main campus. This is discussed further under the Discussion heading below in this report.

47. Following receipt of the amended application, Transport for NSW advised that the proposal is acceptable from a traffic generating perspective, subject to conditions which have been included within the recommended conditions of consent.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021

48. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the Biodiversity and Conservation SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.

49. 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 the development is unlikely to have an adverse impact on the natural recession of floodwaters inter wetlands and over riverine ecosystems.

50. The proposed fitout and external deck structure are unlikely to result in a release of pollutants into a natural waterbody and will not impact periodic flooding that benefits wetlands and other riverine ecosystems.

State Environmental Planning Policy (Sustainable Buildings) 2022

51. As the subject application was submitted on the NSW planning portal but not finally determined before 1 October 2023, Chapter 4 of the Sustainable Buildings SEPP does not apply to the development, in accordance with the savings provisions of Clause 4.2(1)(a) of the SEPP.

Local Environmental Plans

Sydney Local Environmental Plan 2012

52. 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 the MU1 Mixed Use zone. The proposed development is defined as an educational establishment and is permissible with consent in the zone. The development retains the existing business on the ground level which maintains an active street frontage. The commercial offices on the upper floors are also retained which continue to support the viability of nearby centres. 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 40 metres is permitted. A height of approximately 8 metres is proposed to the top of the shade structures from the existing lower ground car park level. The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio (FSR)	Yes	A maximum FSR of 5:1, or gross floor area (GFA) of 7,415 square metres is permitted. The existing building has an FSR of 4.03:1, or 5,986 square metres of GFA.

Provision	Compliance	Comment
		The proposed works will result in a net decrease of 197 square metres of GFA, resulting in a total GFA of 5,789 square metres and FSR of 3.87:1. The proposed development complies with the maximum FSR development standard.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is a local heritage item (item number 2198) known as Commercial building "Peejays Building" including interior. It is not located within a heritage conservation area. The proposed development will not have detrimental impact on the heritage significance of the heritage item. See further details in the 'Discussion' section below.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
6.21C Design excellence	Not applicable	As the development has been assessed against the design quality principles set out in Schedule 8 of the Transport and Infrastructure SEPP, the provisions of clause 6.21C do not apply in this instance pursuant to section 3.36(7) of the Transport and Infrastructure SEPP.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
Other land uses	Yes	The existing site includes the provision of 19 car parking spaces. The proposal involves the reduction of 9 car parking spaces to a total of 10 spaces for the remaining commercial tenancies within the building. No car parking is proposed to be allocated to the educational establishment. The proposed reduction in existing commercial car parking spaces is considered acceptable and complies with the relevant development standards.
Division 3 Affordable housing		
7.13 Contribution for the purpose of affordable housing	Yes	As the development involves alterations to an existing building on residual land to be used for purposes other than residential accommodation and will not result in the creation of more than 60 square metres of gross floor area, the development is excluded and is not subject to a Section 7.13 affordable housing contribution.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The front south-western corner of the site is located on land with class 5 Acid Sulfate Soils and the rest of the site is located on land with class 2 Acid Sulfate Soils. Following a request for information from Council, a Detailed Site Investigation report was submitted. The report identified that limited samples from natural material were collected, and the potential presence of acid sulfate soils could not be ruled out. The Site Auditor recommends implementation of a Construction

Provision	Compliance	Comment
		Environmental Management Plan (CEMP) during construction works to manage any potential acid sulfate soils. The Council's Health Unit has reviewed the information provided and has advised that subject to the recommended conditions, which include preparation of an Acid Sulfate Soils Management Plan and a CEMP, any acid sulfate soils found on site will be able to be appropriately managed.

Development Control Plans

Sydney Development Control Plan 2012

53. In accordance with section 3.36(9) of the Transport and Infrastructure SEPP, the provisions of any development control plan do not apply to developments for the purpose of a school on land in a prescribed zone.

Discussion

Noise management of the outdoor space

54. Following a request for further information regarding noise management of the proposed outdoor terrace, the applicant submitted a more detailed Noise Impact Assessment report, updated Operational Management Plan and amended plans.

55. The following design and management measures are proposed in the amended scheme to ensure that the acoustic amenity of neighbouring properties is maintained during operation of the terrace:

    (a) A maximum of 75 students will occupy the outdoor area in any 15-minute period.

    (b) Four circular shade structures are to incorporate acoustic absorption to 100 per cent of the underside area.

    (c) The outdoor area will not be used for high noise generating activities such as ball games and games that have a propensity for the children to use elevated voices.

    (d) Students will be supervised by a teacher at all times.

    (e) No playing of music shall be allowed.

    (f) Indication of start/ end time of breaks will be announced via a light indication system, in lieu of noise generating devices such as a bell or chime.

    (g) The use of the outdoor area is limited to no more than 4 hours a day between 10am and 2pm Monday to Friday.

56. The submitted amended Noise Impact Assessment report noted the above assumptions and outlined the following:

    (a) There is no specific state or local noise criteria guidelines for schools/ educational establishments. As such the report adopted the noise emission level from the AAAC childcare guideline. This states the contributed LAeq, 15 minute noise level emitted from the outdoor area shall not exceed the background noise level by more than 10 dB(A) at the assessment location for residential receivers. To correct how the AAAC Childcare Centres guideline would be applied relevant to the development, the noise emissions from children are adjusted to Year 7-12 (high school students) scenarios.

    (b) Long term and short-term noise monitoring were undertaken at the points shown on Figure 24 below:

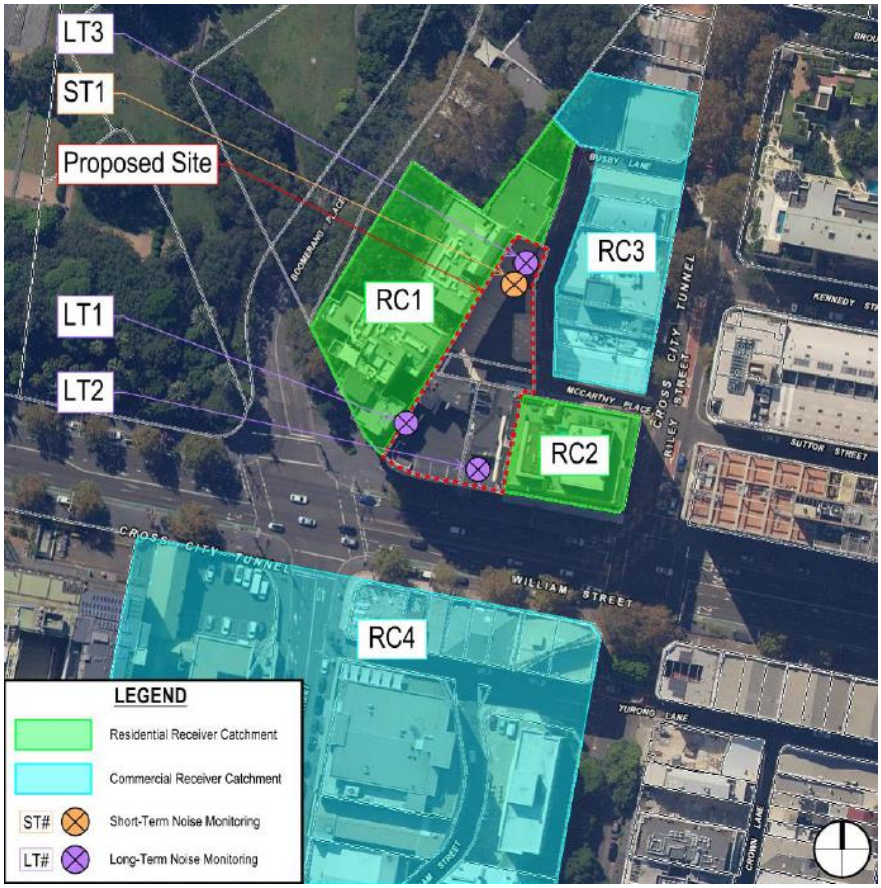


Figure 24: Extract from Noise Impact Assessment report showing the noise monitoring locations.

    (c) The measured rating background noise (RBL) at the residential receivers surrounding the site is 55dB(A) and as such the assumed noise emission limit is 65dB(A).

    (d) Noise monitoring at the existing St Mary's Cathedral College on 30 May 2023 was undertaken during a school outdoor break period which is considered representative of the typical noise level for the proposed space. The measurements were adjusted to reflect the differences between the modelled environment and the subject site as follows:

(i) Consideration of canyon effects in the area due to hard surfaces surrounding the terrace, including reflections from adjoining buildings. Three dimensional acoustic modelling for noise emissions from the outdoor area were conducted using the software SoundPLAN (Version 9.0).

(ii) Canopy reductions.

(iii) Consideration of additional noise from the sunken basketball court (at the modelled environment).

(iv) The modelling did not include proposed landscaping in order to provide a worst-case scenario.

(e) Based on the above, the submitted Noise Impact Assessment report concluded the following:

(i) The most noise affected location will be on the immediate western boundary, within the central portion of the outdoor open space area (refer to Figure 25). This broadly aligns with the eastern facade of the Park Lane Towers building, a residential receiver. Based upon the three dimensional acoustic modelling, the worst-case noise emission level at this receiver is 62dB(A) which complies with the adopted noise emission limit of 65dB(A).

(ii) It was noted that based upon a site investigation, this area of the adjoining building features a solid party wall on the site boundary, with no windows or balconies.

(iii) As the noise travels upwards, the noise emission levels decrease to approximately 56dB(A) at upper levels which is compliant with the noise emission limit.

(iv) At the residential receiver to the east, the Paramount Complex (apartments), the noise emission level is 56dB(A), compliant with the noise emission limit.

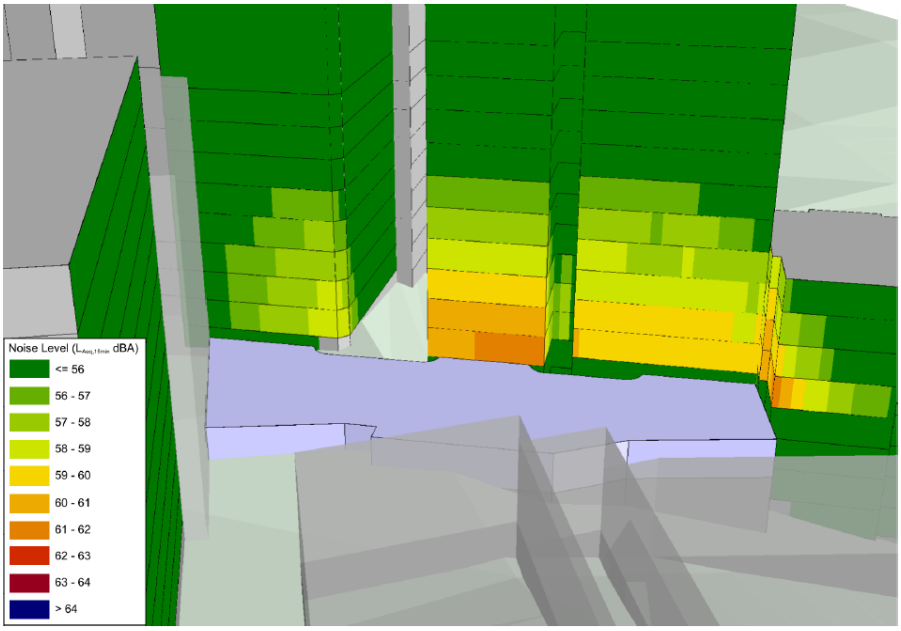


Figure 25: Extract from Noise Impact Report showing 3D modelling of outdoor area noise

57. The report demonstrates that the operation of the development will comply with the relevant noise criteria for the surrounding residential and commercial receivers at the most affected facade.

58. The majority of the design and management measures outlined above are reflected within the Revised Operational Management Plan.

59. A condition is recommended which requires further amendments to the Operational Management Plan to include reference to the restricted hours of operation of the outdoor terrace between 10am and 2pm. A condition requiring compliance with this Operational Management Plan during operation is also recommended.

60. Subject to conditions, the proposal is considered acceptable from a noise management perspective.

Visual Privacy

61. Following a request for further information regarding potential visual privacy impacts from the proposed outdoor terrace, the applicant submitted amended plans. These plans incorporate improved measures from the original design to limit views into and out of the terrace area to adjoining residential properties.

62. The following amendments were made to minimise the potential for overlooking from the development:

    (a) 1800mm-high planted hedges along the terrace edges.

    (b) 4 x 6 metre diameter round shade structures over seating nooks.

    (c) Garden beds between 1.2 metres and 3.6 metres in depth around the majority of the terrace.

    (d) The raised structure is set approximately 11 metres off the eastern boundary at the southern edge of the terrace.

    (e) 1.35 metre high timber fence along the western and northern edges of the terrace above a 0.9 metre concrete wall, to provide a height of 2.25 metres (refer to Figure 26).



Figure 26: Extract from the applicant's landscape and architectural strategy showing the proposed location of the timber fence.

63. The nearest residential properties which are likely to be impacted by the proposal from a visual privacy perspective are the rear facing residents at 60 - 70 William Street (Paramount Apartments) and the residents with windows and balconies facing the proposal at 1 Boomerang Place (Park Lane Towers).

64. Due to the proposed setback of the terrace from the eastern boundary at the southern edge, there is a separation distance of approximately 13 metres from the nearest potential viewpoint to the balconies at 60-70 William Street (see Figure 27). There is also an approximate 13 metre separation distance from the proposed external staircase and the balconies at 60-70 William Street.



Figure 27: Site plan showing approximate separation distance between the raised terrace and the balconies at 60-70 William Street (Paramount Apartments).

65. Although the requirements of the Apartment Design Guidelines (ADG) do not apply to educational establishments, they can be used as a guide to determine appropriate separation distances to maintain visual privacy between buildings in built up environments. The ADG recommends a minimum separation distance of 12 metres between habitable rooms/balconies up to 12 metres and 4 storeys in height.

66. The proposed 13 metre separation distance from the terrace and the stairs to the residential balconies of 60-70 William Street exceed the required 12 metre separation between buildings with balconies up to 4-storeys. The proposed building separation is therefore considered adequate to ensure visual privacy is achieved for residents of 60-70 William Street. In addition, the proposed 1.8 metre high hedge along the eastern edge of the terrace will further mitigate privacy impacts to these residents.

67. A timber fence is proposed on the northern and western elevations to provide privacy to the adjoining residential properties at 1 Boomerang Place. The proposed fence is 1.35 metres high above a 0.9 metre concrete planter wall, to provide a total height of 22.5 metres. At full height, the proposed landscaping species will provide a hedge barrier of 2 metres in height.

68. Notwithstanding, concerns remain that the proposed terrace will have privacy impacts on the lowest eastern facing window (Figure 28) and the eastern facing ground level private balcony (Figure 29) of the adjoining apartments at 1 Boomerang Place.



Figure 28: Existing eastern facing window of an apartment within 1 Boomerang Place.



Figure 29: Existing eastern facing balcony of an apartment within 1 Boomerang

69. Further discussions with the applicant and amended view analysis demonstrates that increasing the height of the proposed fence along this boundary by 0.45 metres to 1.8 metres in height is the minimum increase necessary to mitigate privacy concerns, while balancing the competing objectives of maintaining views, daylight access and ventilation to the ground floor apartment (see Figures 30 and 31).

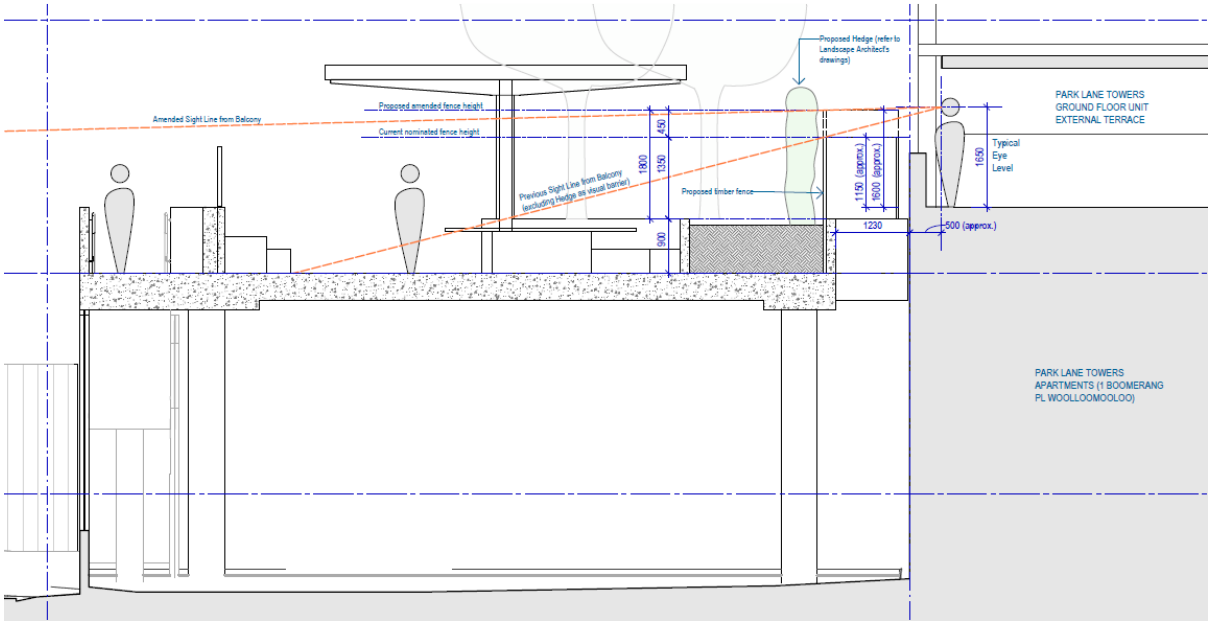


Figure 30: Extract of section showing view impacts of increasing the fence height by 0.45 metres.



Figure 31: Extract of view study indicating proposed impact of increasing the fence by 0.45 metres on the existing adjoining window at 1 Boomerang Place shown in Figure 28.

70. A design modification condition has therefore been included within the recommended conditions of consent to ensure that the fence height is increased to mitigate privacy impacts.

71. The conditioned proposal is considered to provide appropriate visual privacy for residents within 1 Boomerang Place, considering the built-up nature of the context and the fact that this window and balcony currently borrow amenity across the subject site boundary.

Traffic Management

72. Following concern raised from Transport for NSW and Council's Traffic team regarding the originally proposed use of Yurong Parkway for pick-up and drop-off activities, the applicant provided an amended application which proposes the following:

    (a) All pick-up and drop-offs of students are proposed to occur at the existing St Mary's Cathedral College campus, located 300 metres from the site at 2 St Mary's Road, Sydney.

    (b) Students to travel to and sign in at the primary campus in the morning. Students will then walk to the proposed new campus (see Figure 32).

    (c) Students will largely travel to the primary campus via public transport (92 per cent travel via bus, ferry or train) or walking (3 per cent walk) as reflected in the student survey of 597 students undertaken in 2022.

    (d) Students travelling to the primary campus via bicycle will store their bicycle within the existing facilities on the primary campus during the day.

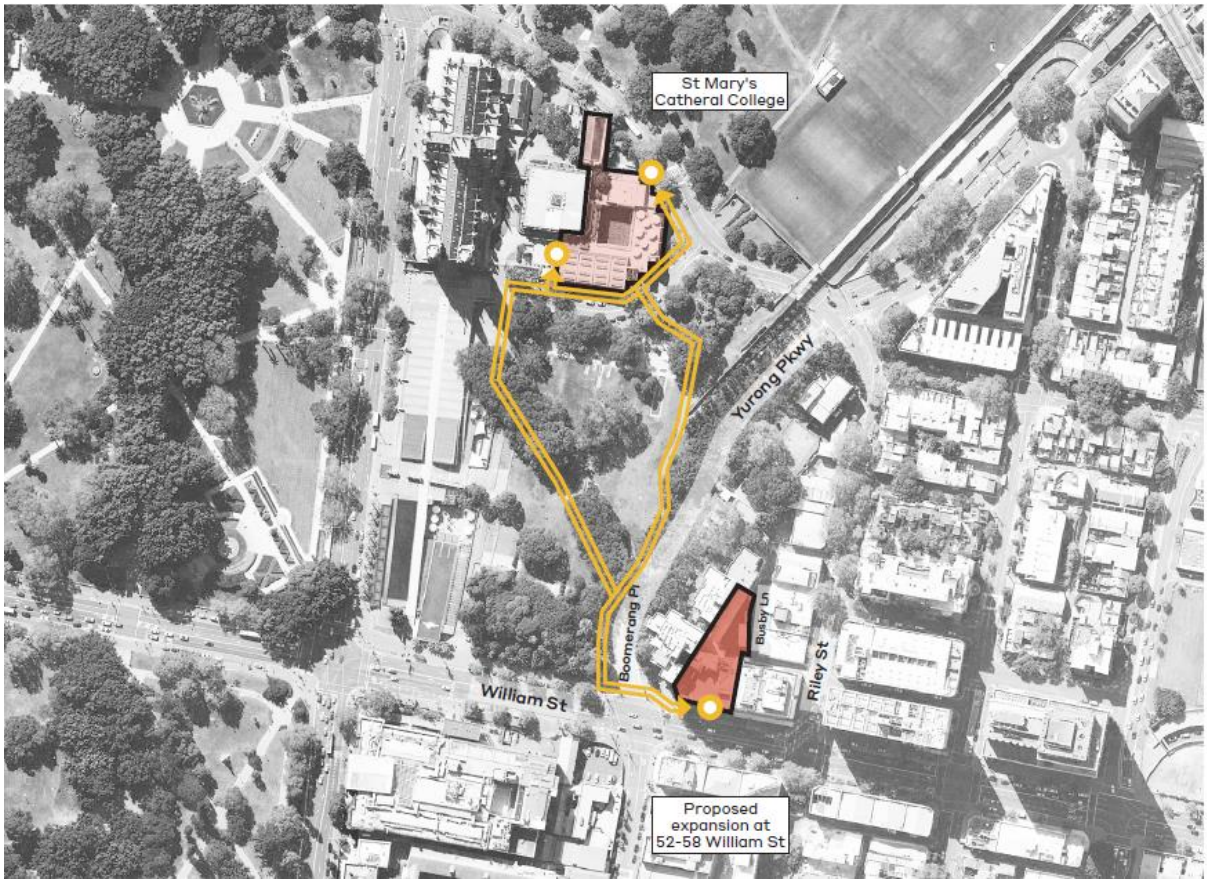


Figure 32: Extract from applicant report showing pedestrian route from the main campus to the proposed campus.

73. Transport for NSW and Council's Traffic team reviewed the amended application and advised that it was acceptable from a traffic management perspective subject to conditions. These conditions have been included within the recommended conditions of consent in Attachment A.

Solar Access

74. Shadow diagrams were submitted with the amended plans for the raised outdoor terrace area. These diagrams demonstrate the impact of the proposed new structure and shade structures on adjoining properties between 9am and 3pm on June 21 (see Figure 33 below).

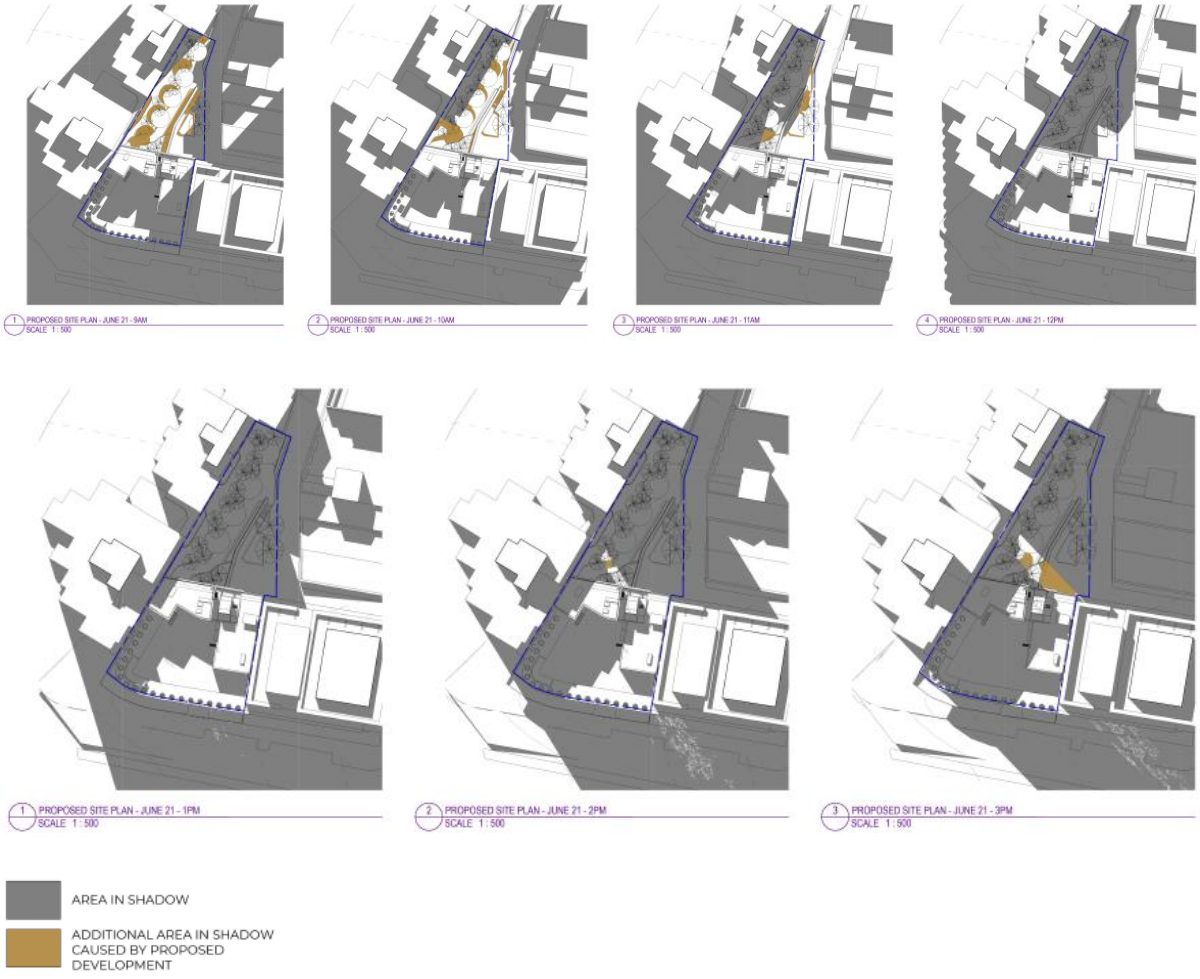


Figure 33: Extract of shadow diagrams showing proposed shadows between 9am and 3pm on June 21.

75. The diagrams show that due to the position of the site, all new shadows cast from the proposed new structures, between 9am and 3pm on June 21, will fall within the subject site. The proposal will not have a shadow impact on the open space areas and living room windows of adjoining properties. The proposal is therefore considered acceptable from a solar access perspective.

Heritage

76. The site is a local heritage item (item number 2198) known as Commercial building "Peejays Building" including interior. It is not located within a heritage conservation area.

77. The building is an example of an inter-war functionalist style commercial building designed by prominent architectural practice of Stephenson and Turner for the Head Office and showrooms for the glass manufacturers Australian Consolidated Industries. It is of historical significance for its association with glass manufacturers who were a leading influence in modelling with glass in the interwar.

78. The proposal involves internal fitout works, reinstatement of an internal staircase, ground floor works to the William Street facade for a fire hydrant booster and construction of a raised outdoor space to the rear.

79. A Heritage Impact Assessment report was submitted in support of the application.

80. The City's Heritage Specialist reviewed the proposal and advised that the proposed works are acceptable, subject to conditions, from a heritage perspective due to the following:

    (a) The proposed internal works are mainly to remove non-original fabric for the new fitout and reinstatement of the original void and elliptical staircase.

    (b) The new balustrade which is inspired from the original design of the internal elliptical staircase can be supported subject to a condition requiring the provision of construction level detailed drawings with dimensions including radii for the curvature, and sizes for all elements and annotated materials and finishes.

    (c) The new fire booster to the William Street facade is supported subject to a condition requiring a materials schedule of the development including details of the cupboard doors and signage to be submitted for approval to Council prior to issue of a construction certificate.

    (d) The existing roller shutter to the street front has been relocated further inside the opening and glass doors are proposed to be installed on the outside. This is supported as it enhances the presentation of the building to the street.

    (a) The new concrete terrace at the rear has been designed to not be physically supported by the heritage building and at the proposed level, it does not appear to block or obscure any existing fenestration.

    (b) The four areas of glass block insets which are currently obscured by later fit out are proposed to be exposed and conserved.

81. Recommended heritage conditions are included in Attachment A. The conditioned proposal is considered to conserve the heritage significance of the heritage item, including associated fabric in accordance with the heritage requirements of Clause 5.10 of the Sydney Local Environmental Plan 2012.

Consultation

Internal Referrals

82. The application was discussed with Council's;

    (a) Transport and Access Unit;

    (b) Waste Management Unit;

(c) Environmental Health Unit;

(d) Heritage and Urban Design Unit;

(e) Landscaping Unit;

(f) Tree Management Unit;

(g) Public Domain Unit;

(h) Surveyors;

(i) Building Services Unit;

(j) Safe City.

83. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Recommended Conditions of Consent in Attachment A.

External Referrals

Transport for NSW

84. Pursuant to Clause 3.58 of the of the Transport and infrastructure SEPP, the application was referred to Transport for NSW (TfNSW) for comment.

85. Comments were received on the amended design on 31 July 2023. Conditions of consent were recommended which are included in the Recommended Conditions of Consent in Attachment A.

Sydney Water

86. Pursuant to Section 78 of the Sydney Water Act, 1994, the application was referred to Sydney Water Corporation for comment.

87. Sydney Water Corporation advised that the proposal was acceptable subject to the inclusion of Sydney Water conditions which have been included within the Recommended Conditions of Consent in Attachment A.

Advertising and Notification

88. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for 28 days between 6 January 2023 and 2 February 2023. A total of 1,354 properties were notified and 63 submissions objecting to the proposal were received during and after the notification period.

89. The submissions raised the following issues:

(a) **Issue:** Noise impacts from raised outdoor play area

Response: As discussed above in the discussion section of this report, the plans have been amended to include a large amount of soft landscaping including trees, shrubs and hedging as well as noise attenuated shade structures.

Conditions are recommended to ensure that the use of the outdoor terrace is restricted to between 10am and 2pm Monday to Friday by up to 75 students at any one time. A revised acoustic report provided modelling which demonstrated that subject to recommended conditions, the development will comply with the relevant noise criteria at the most affected residential and commercial receivers. Subject to conditions which are included in Attachment A, the proposal is considered acceptable from a noise management perspective.

(b) **Issue:** Traffic congestion from pick up and drop off and servicing

Response: The applicant has amended the application so that all pick-up and drop-offs of students will occur from the existing St Mary's Cathedral College campus, located 300m from the site at 2 St Mary's Road, Sydney. Students will then walk to the subject campus. A condition requiring that a Construction Traffic Management Plan to be submitted and approved by Council prior to a Construction Certificate has also been recommended. Transport for NSW and Council's Traffic team has reviewed the amended proposal and are satisfied that development will not cause undue traffic congestion, subject to conditions which are included within the recommended conditions of consent in Attachment A.

(c) **Issue:** Students loitering

Response: A condition ensuring that the outdoor terrace staircase is used in emergency only is recommended to restrict access to Busy Lane by students. A condition is also recommended for an updated operational plan of management to be submitted for Council approval which outlines policies and procedures to prevent student loitering.

(d) **Issue:** Visual privacy and security from raised outdoor space

Response: The proposed raised outdoor space will incorporate 1800mm-high planted hedges along the terrace edges, 4 x 6 metre diameter round shade structures over seating nooks, garden beds between 1.2 metres and 3.6 metres in depth around the terrace and a timber fence along the western and northern edges of the terrace to mitigate overlooking impacts. A condition is included to ensure that the timber fence is increase in height by 0.45 metres to restrict views from the terrace to the west. As detailed above in the Discussion section of this report, the above measures and the proposed setbacks allow adequate separation to provide acceptable privacy for neighbouring properties. Subject to conditions, the proposal is considered to provide appropriate visual privacy for adjoining residents, considering the built-up nature of the context.

(e) **Issue:** Possible expansion of the school into the whole building

Response: The subject application only relates to the change of use of the basement, lower ground, ground and level 1 of the building for up to 300 students. Any future proposal would be required to be assessed on its merits at the time of lodgement.

(f) **Issue:** Noise and dust from construction

Response: A condition is recommended to ensure that a Construction Environmental Management Plan (CEMP) is prepared and submitted to Council for approval prior to issue of a Construction Certificate. The CEMP must consider all potential environmental impacts from the approved works including but not limited to sedimentation control, contamination containment, stockpiles, noise and vibration, odours and dust emissions.

(g) **Issue:** Light pollution from proposed decking

Response: A condition requiring that a separate development application is lodged prior to any external floodlighting or illumination of the building or site landscaping is included in Attachment A.

(h) **Issue:** Heritage impacts to the building

Response: The proposal involves internal fitout works, reinstatement of an internal staircase, ground floor works to the William Street façade for a fire hydrant booster and construction of a raised outdoor space to the rear. As outlined above in the Discussion section of this report, subject to conditions, the proposal is considered to conserve the heritage significance of the heritage item, including associated fabric in accordance with the heritage requirements of Clause 5.10 of the Sydney Local Environmental Plan 2012.

(i) **Issue:** Visual impact of the raised outdoor terrace

Response: The proposed raised outdoor terrace has been amended to include a large amount of landscaping including hedges, shrubs and trees which have a positive visual impact when viewed from neighbouring properties.

(j) **Issue:** Safety of children

Response: A condition is recommended to ensure that the stairway from the raised terrace down to Busby Lane is restricted to emergency use only. No bicycle parking for students is provided via the Busby Lane to restrict use of this lane by students. Landscaping and shade structures have been incorporated into the design of the raised terrace to restrict direct overlooking of students by adjoining properties. The application was referred to Council's Safe City team who advised that the proposal was acceptable from a Safe City perspective.

(k) **Issue:** A social needs analysis for the school has not been undertaken

Response: The site is zoned MU1 Mixed Use, and the proposed Educational Establishment is a permissible use within the zone. The application was referred to Council's Social Strategy team who advised that overall the increase in education/ school floor space in the inner city is a positive and that the proposal will provide newly designed and modern learning spaces for students.

(l) **Issue:** Waste storage and management

Response: Following a request for further information, an amended waste management plans and amended architectural plans were provided which included a sufficiently sized waste storage area based on calculations from the current waste generation rates of the school.

The amended proposal was reviewed by Council's Waste Team who advised the development is acceptable subject to standard waste conditions included in Attachment A.

90. Following the submission of amended plans, the application was re-notified between 7 August 2023 and 22 August 2023. A total of 1,354 properties were notified and the City received 13 submissions objecting to the amended proposal during and after this notification period.

91. The submissions raised the following issues:

(a) **Issue:** Traffic impacts and waste management impacts on Busby Lane

Response: As discussed above, policies are proposed to ensure that students are dropped off and picked up at the existing St Mary's campus. No drop offs or pickups are to occur from Busby Lane. The on-site waste storage area has been increased in size and waste streams are proposed to be collected 3 times per week which is considered acceptable within the mixed-use context of the site.

(b) **Issue:** Noise impacts of raised outdoor space

Response: Noise management is addressed in detail in the Discussion section of this report. A revised acoustic report provides modelling which demonstrates subject to conditions recommended in Attachment A, the development will comply with the relevant noise criteria at the most affected residential and commercial receivers.

(c) **Issue:** Solar impacts of the raised outdoor structures

Response: Solar diagrams were submitted with the amended proposal. The diagrams show that due to the position of the site, all new shadows cast from the proposed new structures, between 9am and 3pm on June 21, will fall within the subject site and will not impact the open space areas of living room windows of adjoining properties. The proposal is therefore considered acceptable from a solar access perspective.

(d) **Issue:** Security and visual privacy issues

Response: As discussed above in the Discussion section and response to submissions section of this report, subject to conditions, the proposal will provide appropriate visual privacy for adjoining residents.

(e) **Issue:** Overlooking of children

Response: As discussed above, landscaping and shade structures are incorporated into the design of the raised terrace to restrict direct overlooking of students by adjoining properties. The application was referred to Council's Safe City team who advised the proposal was acceptable from a Safe City perspective.

(f) **Issue:** Lack of community engagement

Response: The application was publicly notified between 6 January 2023 and 2 February 2023. 63 public submissions were received during this time. Comments and concerns from this notification period were included in a request for further information sent to the applicant. The applicant also engaged in their own community consultation via letterbox drops, a project hotline and an information session held on 15 May 2023. Following this consultation, amended plans were then submitted to Council. The amended application was then publicly re-notified between 7 August 2023 and 22 August 2023. Community consultation and engagement has occurred in accordance with the requirements of Schedule 1 of the Environmental Planning and Assessment Act, 1979.

(g) **Issue:** No social benefit of school

Response: As discussed above in this report, the site is zoned MU1 Mixed Use, and the proposed Educational Establishment is a permissible use within the zone. The application was referred to Council's Social Strategy team who advised that overall, the increase in education/ school floor space in the inner city is a positive and that the proposal will provide newly designed and modern learning spaces for students. Recommended conditions, including restriction on hours of operation of the outdoor open space between 10am and 2pm, are included to mitigate amenity impacts of the space on adjoining properties.

(h) **Issue:** Future expansion of school

Response: The subject application only relates to the change of use of the basement, lower ground, ground, and level 1 of the building for up to 300 students. Any future proposal would be required to be assessed on its merits at the time of lodgement.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

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

93. Credits have been applied for the most recent approved use of the site as a commercial premises.

94. As the proposed change of use from a commercial premises to an educational establishment will generate less demand for infrastructure, a Section 7.11 development contribution is not applicable in this instance.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

95. The site is located within the residual lands affordable housing contribution area.

96. As the development is development 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 and is not subject to a Section 7.13 affordable housing contribution.

Relevant Legislation

97. Environmental Planning and Assessment Act 1979.

Conclusion

98. The application seeks development consent for change of use of the basement, lower ground floor, ground floor and level 1 of the existing building to an educational establishment. The purpose of the application is to facilitate an extension of St Mary's Cathedral College for up to 300 students at any one time.

99. The proposal includes associated fitout and alteration works, heritage conservation works, alterations to the at grade car parking area at the rear, and construction of a raised landscaped play space area over to accommodate 75 students at any one time. Proposed hours of operation of the educational establishment are 7am to 6pm, Monday to Friday.

100. The application is referred to the Local Planning Panel for determination as it is the subject of over 25 unique submissions by way of objection.

101. Following an assessment of the application, the applicant was requested to address a number of issues relating to the proposed floor space ratio, traffic impacts, contamination, noise and privacy from the raised outdoor space, heritage issues, landscaping, public domain, canopy cover, and waste management.

102. Amended plans were received which included internal amendments, a revised design of the outdoor terrace and it was proposed that all pick-up and drop-off of students are to occur from the existing St Mary's Cathedral College campus.

103. The proposed height of the new additions to the building comply with the maximum height control of 40 metres under Clause 4.3 of the Sydney Local Environmental Plan 2012.

104. The proposed density of the development complies with the maximum floor space ratio (FSR) control of 5:1 under Clause 4.4 of the Sydney Local Environmental Plan 2012.

105. As a result of the modifications made to the proposed development and subject to conditions, the amended proposal presents an improved outcome and comprises a satisfactory response to the conditions of the site and locality.

106. The amended proposal is generally acceptable with regard to the applicable planning controls, results in a form and scale that achieves the desired future character of the area and exhibits design excellence.

107. Subject to the recommended conditions of consent, the proposed development achieves acceptable amenity for the existing and future occupants of the subject and adjoining sites and generally satisfies the relevant strategy, objectives and provisions of the Sydney Local Environmental Plan 2012 and the Transport and Infrastructure SEPP.

ANDREW THOMAS

Executive Manager Planning and Development

Julia Errington, Senior Planner

Attachment A

Recommended Conditions of Consent

SCHEDULE 1

CONDITIONS OF CONSENT

PART A - GENERAL

(1) APPROVED DEVELOPMENT

(a) Development must be in accordance with Development Application Number D/2022/1354 dated 4 January 2023 and the following drawings prepared by Woods Bagot Architects:

Drawing Number	Drawing Name	Date
A-DA1000 Revision 2	Location Plan	17/05/2023
A-DA1100 Revision 2	Existing Site Plan	17/05/2023
A-DA1101 Revision 2	Proposed Site Plan	17/05/2023
A-DA1200 Revision 2	Overall Arrangement Plan Proposed Change of Use	17/05/2023
A-DA2000 Revision 2	Existing – Basement Plan	17/05/2023
A-DA2001 Revision 2	Existing – Lower Ground	17/05/2023
A-DA2002 Revision 2	Existing – Ground Plan	17/05/2023
A-DA2003 Revision 2	Existing – Level 1 Plan	17/05/2023
A-DA2200 Revision 2	Demolition and Proposed – Basement Plan	17/05/2023
A-DA2201 Revision 2	Demolition and Proposed – Lower Ground Plan	17/05/2023
A-DA2202 Revision 5	Demolition and Proposed – Lower Ground External	01/09/2023
A-DA2203 Revision 2	Demolition and Proposed – Ground Plan	17/05/2023
A-DA2204 Revision 5	Demolition and Proposed – Ground Plan External	29/09/2023
A-DA2205 Revision 2	Demolition and Proposed – Level 1 Plan	17/05/2023
A-DA3200 Revision 2	South Elevation	17/05/2023
A-DA3201 Revision 3	North Elevation	29/09/2023
A-DA3202 Revision 2	Street Frontage Elevation	17/05/2023

Drawing Number	Drawing Name	Date
A-DA3203 Revision 1	Busby Lane Elevation	17/05/2023
A-DA3210 Revision 3	Section 1	29/09/2023
A-DA3211 Revision 2	Section 2	17/05/2023
A-DA3212 Revision 2	Section 3	17/05/2023
A-DA4201 Revision 1	Rear Terrace East Elevation	17/05/2023
A-DA4202 Revision 2	Rear Terrace Sections	29/09/2023
A-DA4301 Revision 1	Spiral Stair	17/05/2023
LA-100 Revision B	Landscape Plan	01/08/2023
LA-101 Revision B	Tree Canopy Cover	01/08/2023
L501 Revision B	Planting Plan: Stage 1 Ground Level	01/08/2023
LA-601 Revision B	Sections	01/08/2023

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) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

(a) The privacy fence along the western boundary of the outdoor terrace is to be increased in height by 450mm to ensure visual privacy is maintained for the ground level residences of 1 Boomerang Place. The privacy fence is to be designed to be flush with the outer edge of the terrace.

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

Reason

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

(3) HOURS OR OPERATION

The hours of operation of the school are restricted to between 7am and 6pm Monday to Friday.

The use of the outdoor terrace is restricted to between 10am and 2pm Monday to Friday.

Reason

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

(4) MAXIMUM CAPACITY OF SCHOOL AND OUTDOOR TERRACE

(a) The maximum number of students permitted at the school at any one time must not exceed 300 persons per day.

(b) The maximum number of people permitted on the outdoor terrace at any one time is 75 persons.

Reason

To ensure the school can safely accommodate students and staff and safeguard the amenity of the surrounding neighbourhood.

(5) USE OF EXTERNAL STAIR

The external staircase to the outdoor terrace is to be for emergency use only.

Reason

To ensure limited student access to Busby Lane.

(6) NO SPEAKERS OR MUSIC OUTSIDE

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

Reason

To safeguard the amenity of the surrounding neighbourhood.

(7) EDUCATIONAL ESTABLISHMENT MANAGEMENT PLAN

An amended Operational Plan of Management for the management of the public and private domain within and surrounding the premises must be submitted to and approved by Council's Area Planning Manager prior to issue of a Construction Certificate. The Plan of Management must address the following additional matters:

(a) The hours of the outdoor terrace are restricted to between 10am and 2pm Monday to Friday;

(b) Student loitering, student conduct and security;

(c) Maintaining the integrity of the current functions of the existing footways, vehicular thoroughfares and pedestrian thoroughfare areas in the vicinity of the site;

(d) Litter, cleanliness and maintenance;

(e) Conducting thorough briefings to the student and staff populations, detailing the abovementioned obligations and consistently including these briefings as part of the course programs at the premises;

(f) In conforming to this condition, the operator may consider adjustments to the internal layout of the premises to incorporate the provision of additional common rooms, staff rooms and lounge amenity areas for students and staff which may require a Section 4.55 application.

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

Reason

To ensure an adequate plan of management is prepared for the approved use to safeguard the amenity of staff, students and the surrounding neighbourhood.

(8) ASSOCIATED ROADWAY COSTS

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Sydney Streets Technical Specification" including amendments and "Sydney Streets Design Code".

Reason

To ensure all roadway works are designed and constructed in accordance with Council requirements.

(9) COST OF SIGNPOSTING

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

Reason

To ensure all associated roadway works costs are borne by the developer.

(10) SERVICE VEHICLE SIZE LIMIT

The size of vehicles servicing the property must be a maximum length of 6.4m. Any service vehicle larger than 6.4m (for example) MRV, a spotter and or traffic marshal must be used to facilitate reverse movements. Larger vehicles are needed to enter the site by reversing in with the help of the spotter/ traffic marshal and exit the site in a forward direction.

Reason

To maintain the orderly operation of vehicle parking and loading areas.

(11) SIGNS AT EGRESS

The following signs must be provided and maintained within the site at the point(s) of vehicle egress:

(a) Compelling drivers to stop before proceeding onto the public way

(b) Compelling drivers to "Give Way to Pedestrians" before crossing the footway; or compelling drivers to "Give Way to Pedestrians and Bicycles" before crossing a footway on an existing or identified shared path route.

Reason

To ensure the safety of surrounding pedestrians and cyclists.

(12) VEHICLE FOOTWAY CROSSING

A separate application is to be made to, and approved by, Council for the construction of any proposed vehicle footway crossing or for the removal of any existing crossing and replacement of the footpath formation where any such crossings are no longer required.

All disused or redundant vehicle crossings and laybacks must be removed and footway, kerb, gutter and road restoration reinstated in accordance with Council's standards, to suit the adjacent finished footway and edge treatment materials, levels and details, or as otherwise directed by Council officers. All construction and replacement works are to be completed in accordance with the approved plans prior to the issue of any Occupation Certificate.

Note: In all cases the construction materials should reinforce the priority of pedestrian movement over that of the crossing vehicle.

Reason

To ensure all relevant approvals for traffic and parking works are obtained and designed in accordance with Council requirements.

(13) DROP OFFS AND PICK UP

School drop off and pick up must occur from the main campus at 2 St Marys Road Sydney. No car drop off and pick up of students is to occur from 52-58 William Street Woolloomooloo.

Reason

To ensure parking operations associated with the school do not adversely impact on local traffic movements.

(14) TERRACE HEIGHT

(a) The height of the terrace slab must not exceed RL 12900 (AHD) to the top of the slab.

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

Reason

To ensure the constructed development complies with the approved height.

(15) 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 material.

(g) The façade tiles must not be rendered, painted or coated.

(h) Where internal partitions meet external walls they must abut columns or other such building elements and not the glass blocks. Internal and external glass blocks must not be obscured by any partitions.

Reason

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

(16) 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.

(17) SHOP DRAWINGS OF STAIRCASE

Detailed and dimensioned shop drawings of the original balustrade and staircase proposed to be reinstated must be submitted to and approved by Council's Urban Design and Heritage Manager prior to a Construction Certificate being issued.

Reason

To ensure the staircase is sympathetically reinstated.

(18) EXTERNAL LIGHTING

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

Reason

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

(19) 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.

(20) 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.

(21) SIGNS - SEPARATE DEVELOPMENT APPLICATION REQUIRED

A separate development application for any proposed signs additional to those approved as part of this consent (other than exempt or complying signs) must be submitted to and approved by Council prior to the erection or display of any such signs.

Reason

To require separate consent to be obtained for any additional signs.

(22) 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.

(23) WASTE AND RECYCLING MANAGEMENT - GENERAL

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

(24) ALLOCATION OF PARKING

The number of car parking spaces to be provided for the development must comply with the table below. Details confirming the parking numbers must be submitted to the satisfaction of the Registered Certifier prior to the issue of a Construction Certificate.

Car Parking Type	Number
Commercial/Office and business parking	9
Accessible Commercial/ office and business parking	1
Subtotal	10
Small Rigid Vehicle loading dock(s)	1

Reason

To ensure the allocation of parking is appropriately managed.

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

(a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by ELab Consulting, dated 3 October 2023, ref P00446, titled 5258 William Street, Woolloomooloo, Council Ref :2023/579735 must be implemented in the development prior to the commencement of its use.

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

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

Note: Suitably Qualified Acoustic Consultant means a consultant who possesses the qualifications to join the Australian Acoustical Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustical Consultants (grade of member firm).

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

Reason

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

(26) 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 acoustic consultant who is a person who possesses the qualifications to join the Australian Acoustic Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustic Consultants (grade of member firm).The plan must include but not be limited to the following:-

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

(b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.

(c) A representative background noise measurement ($L_{A90,\ 15\ minute}$) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.

(d) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.

(e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.

(f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.

(g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.

(h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

Reason

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

(27) PARKING DESIGN

The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Registered Certifier prior to a Construction Certificate being issued.

Reason

To ensure parking facilities are designed in accordance with the Australian Standards.

(28) HERITAGE INTERPRETATION PLAN

(a) An interpretation plan for the site must be submitted to and approved by Council's Urban Design and Heritage Manager / 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 site 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 occupation certificate being issued the approved interpretation plan must be implemented to the satisfaction of Council's Urban Design and Heritage Manager / Area Planning Manager.

Reason

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

(29) CONSERVATION OF PAVEMENT LIGHTS

A conservation methodology, prepared by a suitably qualified heritage consultant detailing the reinstatement, conservation, upgrade and ongoing maintenance of the footpath lights, and vaults below, is to be submitted to and approved by Council's Urban Design and Heritage Manager prior to a Construction Certificate being issued. The Principal Certifier must ensure compliance with the approved plan and conservation upgrade works during the period of construction.

Reason

To ensure that the pavement lights are appropriately conserved.

(30) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION

Prior to a Construction Certificate being issued, an archival photographic recording of the subject site 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) HERITAGE ITEMS - WORKS TO BE CONSISTENT WITH HERITAGE IMPACT STATEMENT

(a) A conservation work schedule detailing methodologies for implementation of the recommendations of the Heritage Impact Statement (HIS) prepared by Urbis and dated 19 December 2022 must be submitted to and approved by Council, prior to a Construction Certificate being issued.

(b) The conservation work schedule must detail how the recommendations of the HIS will be undertaken and include detailed drawings and outline specifications of works required to support any schedule of conservation works.

The work schedule must be implemented to the satisfaction of Council's Urban Design and Heritage Manager prior to the issue of any Occupation Certificate.

Reason

To ensure the works are carried out in an appropriate manner that protects the heritage of the site/building.

(32) BUILDING WORKS TO COMPLY WITH NATIONAL CONSTRUCTION CODE – HERITAGE BUILDINGS OR BUILDINGS WITHIN CONSERVATION AREA

Any building works required to ensure compliance with the National Construction Code (NCC, previously known as the Building Code of Australia or BCA) 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.

(33) HERITAGE CONSERVATION WORKS – HERITAGE ITEM OR SIGNIFICANT BUILDINGS

(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 significance including but not limited to the following: tilework, flooring, glass blockwork, door and window joinery, glazing, hardware, pavements lights, 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.

(f) 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.

(g) INSPECTION AND APPROVAL: The conservation works are to be progressively inspected 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.

(34) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

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

(b) The CTMP must be prepared in accordance with the City's requirements set out at the following link:

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

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

Reason

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

(35) CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

Prior to the issue of a Construction Certificate a Construction Environmental Management Plan (CEMP) must be prepared by appropriately qualified person for the site and submitted to Council's Area Planning Coordinator | Area Planning Manager for written approval. The CEMP must consider all potential environmental impacts from the approved works including but not limited to sedimentation control, contamination containment, stockpiles, noise and vibration, odours and dust emissions.

All works must be undertaken onsite in accordance with the approved Construction Environmental Management Plan.

Reason

To ensure that construction is appropriately managed.

(36) SITE AUDIT STATEMENT

Prior to the issue of a construction certificate associated with the built form of the development (excluding building work directly related to remediation), a Section A Site Audit Statement must be obtained from a NSW Environment Protection Authority accredited Site Auditor and submitted to the Council's Area Planning Manager at email address:-

hbapplications@cityofsydney.nsw.gov.au

The Site Audit Statement must confirm that the site has been remediated and clearly state that site is suitable for the proposed use.

(a) In circumstances where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council, these must be reviewed and must be approved by the Council's Health and Building Unit in writing through the Area Planning Manager before the Site Audit Statement is issued.

(b) In circumstances where the Site Audit Statement conditions (if applicable) are not consistent with the consent, the development must not proceed until the inconsistency has been resolved to the satisfaction of Council (such as via a S4.55 modification of the consent pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*).

(c) No Occupation Certificate is to be issued by the Principal Certifier unless a Site Audit Statement has been submitted to and approved by Council in accordance with this condition.

Reason

To ensure that the site is appropriately remediated.

(37) ACID SULFATE SOILS

(a) Submit to Council an Acid Sulfate Soils Management Plan (ASSMP) for the proposed works prepared in accordance with the NSW Acid Sulfate Soils Management Advisory Committee, Acid Sulfate Soils Assessment Guidelines 1998 that are classified as being in an Acid Sulfate Soils zone Class 3. The ASSMP must be prepared by a person or company who is qualified and competent in relevant geotechnical expertise in relation to the assessment and remediation of Acid Sulfate Soil risks.

OR

(b) Submit to Council a Preliminary Assessment prepared in accordance with the NSW Acid Sulfate Soils Management Advisory Committee, Acid Sulfate Soils Assessment Guidelines 1998 for the works that are classified as being in an Acid Sulfate Soils zone Class 3. The Preliminary Assessment must be prepared by a person or company who is qualified and competent in relevant geotechnical expertise in relation to the assessment and remediation of Acid Sulfate Soil risks. The Preliminary Assessment must conclude that an ASSMP is not required in accordance with the guidelines otherwise an ASSMP must also be submitted to Council in accordance with clause (a) of this condition.

Reason

To ensure any Acid Sulfate Soils are appropriately managed.

(38) SITE SUPERVISION AND REPORTING

(a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone of any tree listed for retention. The Arborist must certify compliance with each key milestone detailed below:

(i) The installation of tree protection measures prior to the commencement of any construction works;

(ii) During demolition of any ground surface materials (pavers, concrete, grass etc.) within the Tree Protection Zone (TPZ) of any tree to be retained;

(iii) During construction of the specify structure/deck/concrete slab etc);

(iv) During any excavation and trenching within the TPZ which has been approved by Council;

(v) During any Landscape works within the TPZ which has been approved by Council.

(b) An Arboricultural Compliance Report which includes photographic evidence and provides details on the health and structure of tree/s must be submitted to and acknowledged by Council's Area Planning Coordinator | Area Planning Manager at each hold point listed below:

(i) Certification that tree protection measures have been installed in accordance with these consent conditions;

(ii) Certification of compliance with each key milestone listed above within 48 hours of completion;

(iv) Details of any other works undertaken on any tree to be retained or any works within the TPZ which has been approved by Council.

(c) A final compliance report must be submitted to and approved by Council's Area Planning Coordinator | Area Planning Manager prior to the issue of any Occupation Certificate.

Reason

To ensure the protection and ongoing health of trees on the site.

(39) PUBLIC DOMAIN DAMAGE BOND

(a) A Public Domain Damage Deposit calculated on the basis of 150 square metres of granite site frontage and 20 square metres of concrete must be lodged with Council in accordance with the City of Sydney's adopted Schedule of 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.

Reason

To allow for the appropriate management and rectification of damage to the public domain.

(40) 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.

Reason

To ensure the preservation of existing survey infrastructure.

(41) PUBLIC DOMAIN CONCEPT PLAN

A public domain concept plan, showing all the site frontages and extending a minimum of 5m past the boundary and to the road centreline, must be prepared in accordance with the City's *Public Domain Manual* and *Sydney Streets* Code. It must be submitted to and approved by the City's Public Domain Unit prior to the issue of any Construction Certificate for the development other than for demolition or excavation.

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

Reason

To ensure public domain works comply with Council's requirements.

(42) PUBLIC DOMAIN LEVELS AND GRADIENTS

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

Any requirements to comply with *Disability Discrimination Act, 1992* at the entrance to a building or publicly accessible space must be resolved inside the site boundary.

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

Reason

To ensure public domain levels and gradients comply with Council's requirements.

(43) STORMWATER DRAINAGE DESIGN

Prior to issue of any Construction Certificate a detailed stormwater management plan prepared by suitable qualified and experienced professional must be submitted to and approved by the City's Public Domain Unit and must include:

A certified stormwater drainage design complying with:

(i) Council's Sydney Streets Technical Specifications, Part A4 Drainage Design;

(ii) Council's Sydney Streets Technical Specifications, Standard Drawings;

(iii) Council's Sydney Streets Technical Specifications, Part B10: Stormwater Drainage Construction;

(iv) Council's Stormwater Drainage Manual; and

(v) All relevant Australian Standards.

This information is available for download from the City's website at https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works.

Note: A Deed of Agreement (Stormwater Deed) for all proposed connections to the City's drainage system, and a Positive Covenant for all OSD systems may be required prior to issue of any Occupation Certificate.

Reason

To ensure stormwater drainage design complies with Council's requirements.

(44) PUBLIC DOMAIN LIGHTING UPGRADE

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

The lighting upgrade plan must cover all adjacent street frontages, being Busby Lane and shall be designed to include the following requirements:

- Lighting compliance with AS1158 requirement under Category PP2 is required.

- COS standard wall mount lights shall be supplied and installed. There is an existing City wall mount scheme along laneway on 60 William St (TBC by developer's electrical contractor). Electricity may be supplied from the same circuit or a new PUMS pit. Developer's electrical contractor must carry out infield survey and confirm location and final supply arrangement with the City prior to construction.

- Wall mount lighting Installation must be accessible for maintenance and upgrade by COS authorised technicians/contractors along the entire length. All cabling shall be installed on the building surface within galvanised steel conduits, MIMS cabling or a similar approved method.

- Establish an access easement in favour of COS for ongoing maintenance and upgrade of wallmounted council lighting, if applicable.

- If stairway or terrace are open to the public, developer must provide a lighting strategy demonstrating that compliance lighting will be provided.

- Lighting impact report must be provided for any terrace or façade lighting to confirm compliance with the State Environmental Planning Policy (Industry and Employment) 2021, NSW Transport Corridor Outdoor Advertising and Signage Guidelines, AS42822019 Control of the Obtrusive Effects of Outdoor Lighting, and the Sydney Development Control Plan (Signs and Advertisements) 2012.

Advice on site specific lighting requirements must be obtained from City's Public Domain Unit before proceeding with the preparation of any final lighting design proposals.

Reason

To ensure pedestrian and street lighting in the public domain complies with Council's requirements.

(45) DILAPIDATION REPORT - PUBLIC DOMAIN

Prior to an approval for demolition and preparatory works being granted or the issue of any Construction Certificate, whichever is earlier, a photographic recording of the public domain site frontages is to be prepared as described in the Public Domain Manual and submitted for approval by Council's Public Domain Unit. The City's *Public Domain Manual* is available for download from the City's website at https://www.cityofsydney.nsw.gov.au/

The submission is to include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

Reason

To establish and document the condition of the public domain for comparison as building work progresses and is completed.

(46) 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 Registered 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.

(47) MICROBIAL CONTROL IN WATER SYSTEMS

The installation, operation and maintenance of water-cooling or warm water systems installed on the premises must comply with the following:

(a) AS/NZS 3666:1:2011 - Air-handling and water systems of buildings-Microbial Control Part 1: Design, installation and commissioning.

(b) AS/NZS 3666:2:2011 - Air-handling and water systems of building-Microbial Control Part 2: Operation and maintenance.

(c) AS/NZS 3666:3:2011 - Air-handling and water systems of buildings-Microbial Control Part 3: Performance based maintenance of cooling water systems.

(d) AS/NZS 3666:4:2011 – Air-handling and water stems of buildings-Microbial Control Part 4: Performance – based maintenance of air – handling systems (ducts and components).

(e) Prior to the issue of an Occupation Certificate associated with the Cooling Water System the occupier of the premise at which the system is installed, must notify the Council in writing on the prescribed form, of the installation of all water-cooling tower systems within the premises under the *Public Health Act, 2010*. Warm water systems other than hospitals (hospitals (which also includes nursing homes, declared mental health facilities, private health facilities) are exempt from notifying Council.

Notification forms are available on Council's website www.cityofsydney.nsw.gov.au

Reason

To ensure water systems comply with relevant standards.

(48) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

(a) The Waste and Recycling Management Plan accompanying this Development Application has been approved by this consent.

(c) All requirements of the approved Waste and Recycling Management Plan must be implemented during construction and operation of the development and include:

(i) Dedicated space to be provided within the development for the storage and recycling of bulky waste, problem waste, strip out and food waste.

(ii) Collection points for waste and recycling must be wholly located within the boundary of the development.

(iii) The nominated waste and recycling storage areas must be constructed to meet the relevant conditions required by the City's *Guidelines for Waste Management in New Developments* 2018.

(iv) Provision and storage within the boundary of the development of waste and recycling receptacles and any bulky waste at all times.

(v) Commercial tenancies must have a commercial waste contract(s) in place prior to commencement of business trading.

(vi) The path of travel between the bin storage areas/bulky waste storage areas and the designated waste/recycling collection point is to have a minimum 1,200mm wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:14.

Note: The building manager/strata title manager or body corporate is responsible for ensuring all tenants are kept informed regarding Council's policies, and best practice waste and recycling source separation.

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.

(49) MATERIALS AND SAMPLES SCHEDULE

A detailed materials, colours and finishes schedule 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 schedule must include details of the fire hydrant door and signage to William Street. The materials and samples schedule/board must not include generic material or colour descriptions, or use terminology such as 'or similar'.

Reason

To require the submission of a materials and samples board following assessment of the development.

(50) REFLECTIVITY

Prior to issue of the Construction Certificate the Registered Certifier must ensure that the visible light reflectivity from building materials used on the facade of the terrace and shade structures does not exceed 20%.

Reason

To ensure the development does not result in adverse reflectivity impacts and to protect the amenity of the public domain.

(51) LANDSCAPE MAINTENANCE PLAN

A detailed landscape maintenance plan must be submitted to and approved by Council's Area Coordinator Planning Assessments or Area Planning Manager prior to the issue of a Construction Certificate. This plan is to be complied with during occupation of the property.

Reason

To ensure the development is supported by a well maintained landscape scheme that meets the City's controls.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

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

(a) Prior to the commencement of any demolition and/or excavation works, a programme of baiting and monitoring of rodent activity is to be put in place at the site.

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

Reason

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

(53) STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS

Prior to a commencement of demolition, excavation or construction work, a report or certification from a practicing structural engineer experienced in dealing with heritage buildings must be submitted to and approved by Council's Urban Design and Heritage Manager, Area Coordinator Planning Assessments or Area Planning Manager. The report must explain how the retained building elements, such as building facades or chimneys are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.

Reason

To ensure the preservation of the building elements that are proposed to be retained.

(54) DISPOSAL OF SURPLUS SALVAGED MATERIALS

Salvaged traditional building materials surplus to the requirements of this project 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 prior to the commencement of demolition.

Reason

To ensure the salvaging and reuse of traditional building materials.

(55) DECOMMISSIONING OF UNDERGROUND STORAGE TANKS

The removal of underground storage tanks must be undertaken in accordance with Safework NSW requirements which includes writing to the Chief Inspector of Dangerous Goods and complying with any conditions imposed and all relevant NSW Environmental Protection Authority/Office of the Environment and Heritage Guidelines and Australian Standards including following;

NSW EPA Technical Note: *Decommissioning, Abandonment and Removal of UPSS* (January 2010),

NSW EPA Technical Note: *Investigation of Service Station Sites* (April 2014),

AS 1940 –2004: Storage and handling of flammable and combustible liquids,

AS 4976 – 2008: The removal and disposal of underground petroleum storage tanks.

A site contamination assessment must be conducted in accordance with the *Guidelines for Consultants Reporting on Contaminated Sites* (NSW Office of the Environment and Heritage 2011) and the *Sampling Design Guidelines* (*NSW Environmental Protection Authority September 1995*) to determine whether petroleum has contaminated soil and groundwater in the vicinity of the storage system and whether remediation is required to ensure the land remains suitable for the continued approved land use.

Subsequent remediation of the site must be undertaken in accordance with the *Managing Land Contamination – Planning Guidelines (Department of Urban Affairs and Planning 1998) and the State Environmental Planning Policy (Resilience and Hazards 2021)* including notification to Council's Area Planning Manager at the start and completion of land remediation.

The removal or in-situ decommissioning of the underground petroleum storage system and any subsequent contamination assessment, preparation of a remediation strategy and final decommissioning reporting must be carried out by a duly qualified person, who has competencies and experience in relation to this area of work that are recognised as appropriate by the relevant industry and the NSW Environmental Protection Authority.

Reason

To ensure the removal of underground petroleum storage tanks is appropriately managed.

(56) CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

A Construction Environmental Management Plan (CEMP) is to be prepared for the review and approval of a Site Auditor prior to commencement of any excavations to ensure appropriate management of contamination risks are implemented during excavation and construction, which includes an Unexpected Finds Protocol to manage any risk due to the potential unexpected finds on the site.

Reason

To ensure any site contamination is appropriately managed.

(57) STREET TREE PRUNING AND REMOVAL

(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, or removal of, street trees and that such works are carried out in an appropriate manner.

(58) 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.

Reason

To ensure relevant approvals for public domain work are obtained.

(59) DILAPIDATION REPORT

Subject to the receipt of permission of the affected landowner, dilapidation report/s of adjoining buildings are to be prepared by an appropriately qualified practising structural engineer and submitted for the approval of the Registered Certifier prior to the issue of a construction certification.

Reason

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

(60) 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, 1993* is obtained.

(61) 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.

(62) 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.

(63) OUT OF SCOPE BUILDING PLAN APPROVAL

Sydney Water will need to undertake a detailed review of building plans:

(a) That affect or are likely to affect any of the following:

(i) Wastewater pipes larger than 300mm in size

(ii) Pressure wastewater pipes

(iii) Drinking water or recycled water pipes

(iv) Our property boundary

(v) An easement in our favour

(vi) Stormwater infrastructure within 10m of the property boundary.

(b) Where the building plan includes:

(i) Construction of a retaining wall over, or within the zone of influence of our assets

(ii) Excavation of a basement or building over, or adjacent to, one of our assets

(iii) Dewatering – removing water from solid material or soil.

(c) The detailed review is to ensure that:

(i) our assets will not be damaged during, or because of the construction of the development

(ii) we can access our assets for operation and maintenance

(iii) your building will be protected if we need to work on our assets in the future.

The developer will be required to pay Sydney Water for the costs associated with the detailed review.

Reason

To ensure the development satisfies Sydney Waters requirements.

(64) TREE PLANTING

Certain tree species placed in close proximity to Sydney Water's underground assets have the potential to inflict damage through invasive root penetration and soil destabilisation. Sydney Water requires that all proposed or removed trees and vegetation included within the proposal adhere to the specifications and requirements within Section 46 of the *Sydney Water Act, 1994* and *Diagram 5 – Planting Trees* within our Technical guidelines – Building over and adjacent to pipe assets. Please note these guidelines include more examples of potential activities impacting our assets which may also apply to your development.

If any tree planting proposed breaches our policy, Sydney Water may need to issue an order to remove every tree breaching the Act, or directly remove every tree breaching the Act and bill the developer or Council for their removal.

Reason

To ensure the development satisfies Sydney Waters requirements.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

(65) 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.

(66) 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 Polic*y *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.

(67) USE OF INTRUSIVE APPLIANCES – NOT APPROVED

This development consent does not extend to the use of appliances which emit noise of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the City of Sydney Code of Practice for Construction Hours/Noise 1992".

A separate Section 4.55 application must be submitted to the Council for the use of any equipment of a highly intrusive nature (such as pile - drivers and hydraulic hammers) or are not listed in Groups B, C, D, E or F of Schedule 1 of the *City of Sydney Code of Practice for Construction Hours/Noise 1992*.

Reason

To ensure the acoustic amenity of surrounding developments is maintained.

(68) 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 Planning Assessments 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 Planning Assessments 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.

(69) 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.

(70) 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.

(71) 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.

(72) DISCHARGE OF CONTAMINATED GROUNDWATER

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

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

Reason

To ensure that the discharge of ground water is appropriately managed.

(73) 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 the tree protection zone 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.

(74) PUBLIC DOMAIN WORKS SECURITY BOND

A Public Domain Works Security Bond will be required for the public domain works and for repairing damage that may be caused to the public domain in the vicinity of the site, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual.

The 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 being issued for the approval of the Public Domain Plan.

The bond will be retained in full until all public domain works, including rectification of damage to the public domain, are completed to City's standards and approval and the required works-as-executed documentation are 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% will be retained for the duration of the specified Defects Liability Period.

Reason

To ensure public domain works are completed and any damage to the public domain is rectified.

(75) DRAINAGE AND SERVICE PIT LIDS

All existing or proposed drainage and service pit lids throughout the public domain must be to City of Sydney specifications and heel/bicycle safe, slip resistant, infill with material to match surrounding surface, finished flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Infill pit lids are to be detailed where specified by Council's Public Domain Officer. Private pits are not permitted within the public domain. All details of pit lids must be shown on the public domain plan and must be approved by the City's Public Domain Unit prior to the issue of an approval for public domain works.

Reason

To ensure drainage and service pit lids within the public domain are appropriately designed and installed.

(76) PUBLIC DOMAIN PLAN DETAILED DOCUMENTATION FOR CONSTRUCTION

A detailed public domain plan and all relevant documentation must be submitted to and approved by 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's specifications and requirements, as outlined in documents such as City of Sydney's Public Domain Manual, Sydney Streets Code, Sydney Street Tree Masterplan, Sydney Lights: Public Domain Design Code and Sydney Streets Technical Specification. The documentation must be checked, accurate, and comply with specified requirements. Plans must be based on an accurate survey, to scale and fully coordinated across all disciplines and submissions. The supplied documentation must be 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, details must be submitted for approval with the public domain plan and additional fees may apply.

Reason

To ensure the public domain complies with Council's requirements.

(77) 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 hold 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.

Reason

To ensure hold points are adhered to during construction works.

(78) STORMWATER DRAINAGE CONNECTION

For approval of a connection into the City of Sydney's drainage system an "*Application for Approval of Stormwater Drainage Connections*" must be submitted to the City, together with an application fee in accordance with the City of Sydney's adopted Schedule of Fees and Charges. This must be approved prior to approval being issued for the construction of public domain work.

Reason

To ensure approval of connection into the Council's drainage system is sought.

(79) PUBLIC DOMAIN LIGHTING RETICULATION

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

The Public Domain Manual and all other relevant documents are available for download from Council's website at:

https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works.

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

Reason

To ensure the public domain lighting documentation complies with Council requirements.

(80) 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.

(81) 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.

(82) ACCESS DRIVEWAYS TO BE CONSTRUCTED

Approved driveways are to be constructed for all vehicular access to the construction site in accordance with the requirements of Council's “Driveway Specifications” to the satisfaction of Council.

Reason

To allow adequate vehicular access to the site.

(83) 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.

(84) EROSION AND SEDIMENT CONTROL

Where less than 250 square metres of soils 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.

(85) SURVEY

All footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report, prepared by a Registered Surveyor, must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments by the subject building over adjoining boundaries or roads must be removed prior to continuation of building construction work.

Reason

To ensure the development does not encroach onto neighbouring properties.

(86) 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.

(87) 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.

(88) 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.

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

(a) All works conducted on site which form part of this development must be carried out in accordance with the submitted Demolition, Excavation and Construction Management Plan required by condition (26) of this development consent.

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

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

Reason

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

PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

(90) 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.

(91) REGISTRATION OF COVENANT

Prior to the issue of any Occupation Certificate, a covenant must be registered on the title of the land and a copy of the title submitted to the Council's Area Planning Manager and the Principal Certifier.

This covenant must be registered on the title of the land binding the owners and future owners with the responsibility for the ongoing maintenance and rehabilitation works required in terms of the encapsulated/remaining contaminated materials, including the discharge or prevention of discharge from any contaminants or for any works subsequently required by the NSW Environment Protection Authority

A copy of the revised certificate of land title recording the covenant must be submitted to Council's Area Planning Manager and the Principal Certifier prior to the issue of any Occupation Certificate.

Reason

To ensure that contamination is appropriately managed.

(92) SITE AUDIT STATEMENT – ENVIRONMENTAL MANAGEMENT PLAN

Where the ongoing land use suitability and release of the Final (Section A) Site Audit Statement is dependent upon the implementation of an Environmental Management Plan (EMP) in relation to any residual contamination remaining onsite, the EMP must be approved by the Site Auditor and Council's Area Planning Manager prior to the issue of the final Site Audit Statement.

The owner of the land is required to comply with the ongoing obligations of any EMP which form part of the final Site Audit Statement for the site.

A covenant must be registered on the title of the land binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated/remaining contaminated materials, including the discharge or prevention of discharge from any contaminants or for any works subsequently required by the NSW Environment Protection Authority

A copy of the revised certificate of land title recording the covenant must be submitted to Council's Area Planning Manager and the Principal Certifier prior to the issue of any Occupation Certificate.

Reason

To ensure that contamination is appropriately managed.

(93) ADVANCE TREE PLANTING

Tree planting within the property must be undertaken in accordance with the following conditions, and to Council's satisfaction, prior to the issuing any Occupation Certificate.

(a) Tree planting shall be undertaken in accordance with the approved Landscape Plans.

(b) New trees must be grown in accordance with the Australian Standard 2303 'Trees stock for landscape use'.

(c) At the time of planting, the container size is to be a minimum of 100 litres and a minimum height of 1.8 metres.

(d) New trees must be planted by a qualified Horticulturalist or Arborist of Level 3 under the Australian Qualifications Framework (AQF).

(e) New trees must be planted in such a manner as to promote good health during the establishment period, and must be maintained, as far as practicable to ensure tree growth into maturity.

(f) Prior to the issue of any Occupation Certificate, suitable documentation (including a written statement and photographic evidence) is to be submitted to Council for review and written confirmation is to be obtained from Council's Area Planning Coordinator or Area Planning Manager confirming all trees have been planted to Council's satisfaction (excluding tree maintenance).

(g) Any newly planted tree that fails to establish within 2 years of the initial planting date must be replaced with a tree of comparable qualities.

Reason

To ensure the provision and maintenance of adequate tree planting on site.

(94) 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, Public Domain Lighting, the City's *Public Domain Manual,* Stormwater *Drainage Manual, Sydney Lights Design Code* and *Sydney Streets Technical Specification.*

The public domain work must be inspected and a Public Domain Work 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.

Reason

To ensure the public domain works are completed in accordance with the approved documents and Council's requirements.

(95) 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. These works must be certified by a suitably qualified, independent professional. Details of the documentation required for approval will be advised by the City's Public Domain Unit.

Reason

To ensure Council receives works-as-executed documentation for public domain works.

(96) STORMWATER COMPLETION DEED OF AGREEMENT AND POSITIVE COVENANT

Prior to the issue of any Occupation Certificate:

(a) The Owner is required to enter into a Deed of Agreement (Stormwater Deed) with the City of Sydney and obtain registration of Title of a Positive Covenant for all proposed connections to the City's underground drainage system. The deed and positive covenant will contain terms reasonably required by the City and will be drafted by the City's Legal Services Unit at the cost of the applicant, in accordance with the City's Fees and Charges.

(b) A Positive Covenant must be registered on the property title for all drainage systems involving On-Site Detention (OSD) to ensure maintenance of the approved OSD system regardless of the method of connection. The positive covenant will contain terms reasonably required by the City and will be drafted by the City's solicitor at the cost of the applicant, in accordance with the City's Fees and Charges.

Reason

To protect underground drainage system.

(97) SURVEY INFRASTRUCTURE – RESTORATION

(a) Prior to any Occupation Certificate being issued for the development, documentary evidence of restoration must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include:

(i) Certification that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal or by the City's Principal Surveyor under condition "Survey Infrastructure – Identification and Recovery" have been complied with;

(ii) Certification that all requirements requested under any Surveyor-General's Approval for Deferment of Survey Marks from condition "Survey Infrastructure – Pre Subdivision Certificate works" have been complied with and;

(iii) Time-stamped photographic records of all new survey infrastructure relating to the site clearly showing the mark itself and sufficient context to aid in identifying the mark on site.

Reason

To ensure all requirements for survey mark removal are complied with.

(98) EMERGENCY EVACUATION PLAN PRIOR TO OCCUPATION CERTIFICATE

Prior to issue of any Occupation Certificate the owner/operator must have in place an emergency evacuation plan that encompasses the requirements of Fire and Rescue NSW and outlines the procedures by which staff will be trained in emergency procedures.

Reason

To ensure the development can safely accommodate children and staff and operates in accordance with Fire and Rescue NSW requirements.

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

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

(b) The data required to be submitted within the surveyed location must include and identify:

(i) building design above and below ground in accordance with the development consent;

(ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;

(iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

(c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

Reason

To ensure the provision of an appropriate electronic model of the development.

(100) PHYSICAL MODELS

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

Note:

(i) The models must be constructed in accordance with the Model Specifications available online at http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements Council's modellers must be consulted prior to construction of the model.

(ii) The models are to comply with all of the conditions of the Development Consent.

(iii) The models must be amended to reflect any further modifications to the approval (under Section 4.55 of the *Environmental Planning and Assessment Act, 1979*) that affect the external appearance of the building.

Reason

To ensure the provision of an appropriate physical model of the development.

(101) SURVEY CERTIFICATE AT COMPLETION

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

Reason

To ensure the development does not encroach onto neighbouring properties.

PART F – OCCUPATION AND ONGOING USE

(102) 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.

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

(i) The noise level and the background noise level 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 premises.

(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.

(104) 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.

To maintain the orderly operation of vehicle parking areas and to ensure the public domain is kept free from physical obstructions.

(105) 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.

(106) 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.

Reason

To ensure all works to the City's public domain are protected under a liability period.

(107) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

Reason

To protect neighbouring properties.

(108) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

Reason

To protect the public way.

(109) UNDER AWNING LIGHTING

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 (Eavg/Emin) 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.

SCHEDULE 2

PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation, 2021 apply*:

Clause 69	Compliance with *National Construction Code (previously known as Building Code of Australia)* and insurance requirements under the *Home Building Act 1989*
Clause 70	Erection of signs
Clause 71	Notification of *Home Building Act, 1989* requirements
Clause 72	Conditions relating to entertainment venues
Clause 73	Conditions relating to maximum capacity signage
Clause 74	Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 2 conditions of the *Environmental Planning and Assessment Regulation, 2021*. This can be accessed at: http://www.legislation.nsw.gov.au

SCHEDULE 3

TERMS OF APPROVAL – TRANSPORT FOR NSW

The Terms of Approval as advised by Transport for NSW are as follows:

School Zones

1. The Applicant must obtain written authorisation from TfNSW to install the School Zone signs and associated pavement markings and/or remove/relocate any existing Speed Limit signs.

   To obtain authorisation, the Applicant must submit the following for review and approval by TfNSW, at least eight (8) weeks prior to student occupation of the site:

a. A copy of Council's development Conditions of Consent
b. The proposed school commencement/opening date
c. Two (2) sets of detailed design plans showing the following:
    a. School property boundaries
    b. All adjacent road carriageways to the school property
    c. All proposed school access points to the public road network and any conditions imposed/proposed on their use
    d. All existing and proposed pedestrian crossing facilities on the adjacent road network
    e. All existing and proposed traffic control devices and pavement markings on the adjacent road network (including School Zone signs and pavement markings).
    f. All existing and proposed street furniture and street trees.

   School Zone signs and pavement marking patches must be installed in accordance with TfNSW approval/authorisation, guidelines and specifications.

   All School Zone signs and pavement markings must be installed prior to student occupation of the site. The Developer must maintain records of all dates in relation to installing, altering, removing traffic control devices related to speed.

   Following installation of all School Zone signs and pavement markings the Developer must arrange an inspection with TfNSW for formal handover of the assets to TfNSW. The installation date information must also be provided to TfNSW at the same time.

   Note: Until the assets are formally handed-over and accepted by TfNSW, TfNSW takes no responsibility for the School Zones/assets.

Green Travel Plan

2. Prior to the Issue of the Occupation Certificate, the applicant shall prepare a Green Travel Plan in consultation with the Sydney Coordination Office within TfNSW with an Implementation Strategy that commits to specific management actions, including operational procedures to be implemented along with timeframes. The applicant shall submit a copy of the plan for the endorsement of the Coordinator General, Transport Coordination, within Transport for NSW, at least six (6) months prior to the commencement of operation of the St Mary's Cathedral College Secondary Campus.

   The plan (as reviewed in consultation with the Sydney Coordination Office within TfNSW and updated annually) shall be implemented by the applicant for the life of the development.

Construction Pedestrian and Traffic Management Plan

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

- Prepare a Construction Pedestrian and Traffic Management Plan (CPTMP) in consultation with TfNSW. The CPTMP needs to specify matters including, but not limited to, the following:
    - A description of the development;
    - Location of any proposed work zone(s);
    - Details of crane arrangements including location of any crane(s);
    - Haulage routes;
    - Proposed construction hours;
    - Predicted number of construction vehicle movements and detail of vehicle types, noting that vehicle movements are to be minimised during peak periods;
    - Details of specific measures to ensure the arrival of construction vehicles to the site do not cause queuing on public roads;
    - Details of the monitoring regime for maintaining the simultaneous operation of buses and construction vehicles on roads surrounding the site;
    - Pedestrian and traffic management measures;
    - Construction program and construction methodology;
    - A detailed plan of any proposed hoarding and/or scaffolding;
    - Measures to avoid construction worker vehicle movements within the CBD;
    - Consultation strategy for liaison with surrounding stakeholders, including other developments under construction;
    - Any potential impacts to general traffic, cyclists, pedestrians and light rail and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works;
    - Cumulative construction impacts of projects including Sydney Metro City and South West. Existing CPTMPs for developments within or around the development site should be referenced in the CPTMP to ensure that coordination of work activities are managed to minimise impacts on the surrounding road network; and
    - Proposed mitigation measures. Should any impacts be identified, the duration of the impacts and measures proposed to mitigate any associated general traffic, public transport, pedestrian and cyclist impacts should be clearly identified and included in the CPTMP.

- Provide the builder’s direct contact number to small businesses adjoining or impacted by the construction work and TfNSWto resolve issues relating to traffic, public transport, freight, servicing and pedestrian access during construction in real time. The applicant is responsible for ensuring the builder’s direct contact number is current during any stage of construction.

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.

2. ***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.

3. 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/

4. 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.

5. 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:

6. 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.

7. 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.

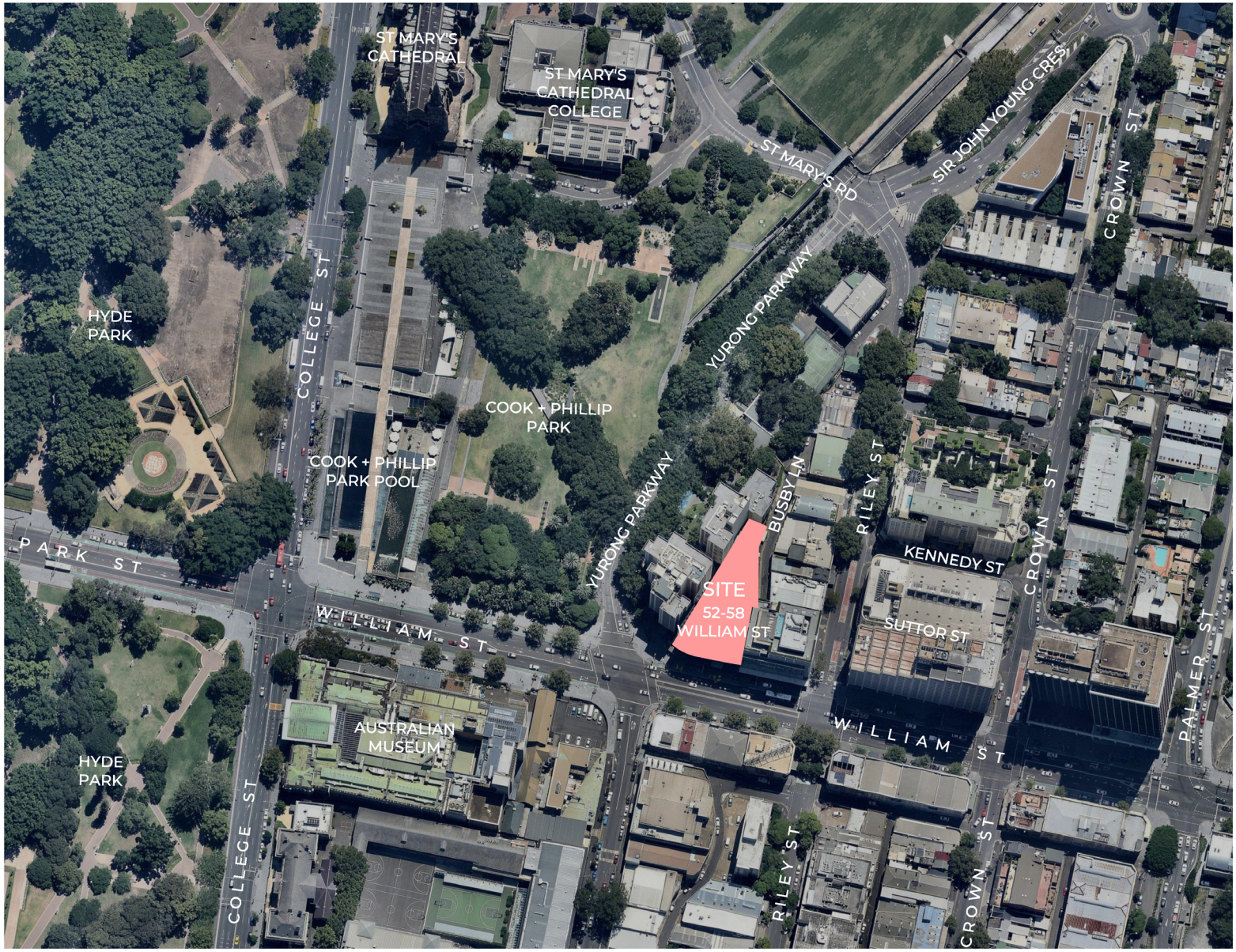
8. Comply with the *Food Act, 2003*, the Australia New Zealand Food Standards Code, Australian Standard 4674 – 2004, and register the business with Council if the premises is used for the manufacture, preparation, packing, storing, conveying or delivering of food or beverage for sale.

9. Contact Sydney Water regarding the water and sewerage services to this development. For further information go to www.sydneywater.com.au.

10. Carry out critical stage inspections in accordance with Section 6.5 of the *Environmental Planning and Assessment Act, 1979* and Clauses 61, 63 and 65 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation, 2021*.

Attachment B

Selected Drawings



Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
W–B WOODS BAGOT

Project number	Size check		
121761	25mm		
Checked	Approved	Sheet size	Scale
CS	CS	A1	Not to Scale

Sheet title
Location Plan

Sheet number	Revision
A- DA1000	2

Status
FOR DEVELOPMENT APPLICATION



1 EXISTING SITE PLAN
SCALE 1 : 200

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
W—B
WOODS BAGOT

Project number	Size check		
121761	25mm		
Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 200

Sheet title
Existing Site Plan

Sheet number	Revision
A- DA1100	2

Status
FOR DEVELOPMENT APPLICATION



1 PROPOSED SITE PLAN
SCALE 1 : 200

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
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Project number	Size check	
121761	25mm	
Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 200

Sheet title
Proposed Site Plan

Sheet number A- DA1101
Revision 2
Status FOR DEVELOPMENT APPLICATION



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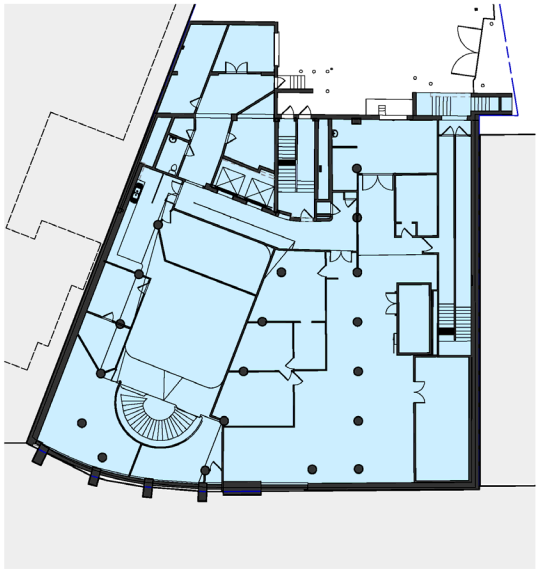
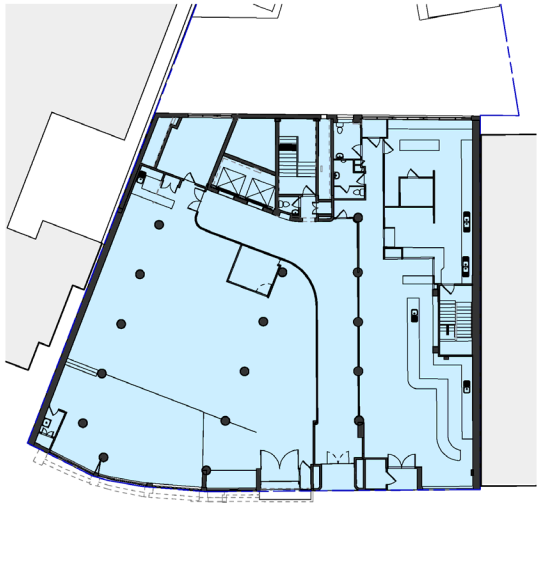
SCALE 1 : 200



2 EXISTING USE - LOWER GROUND
SCALE 1 : 200



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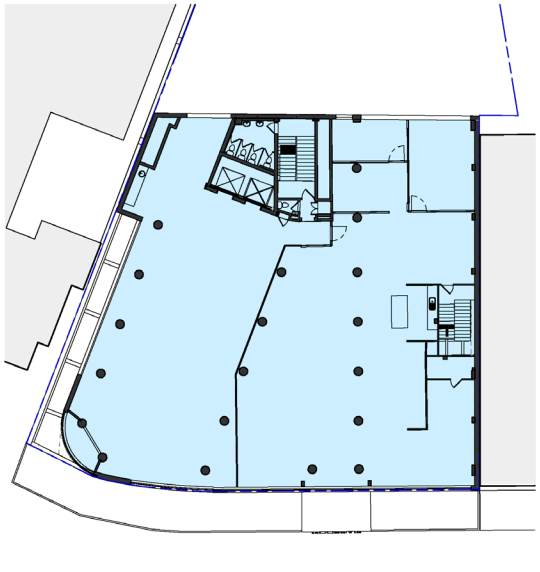
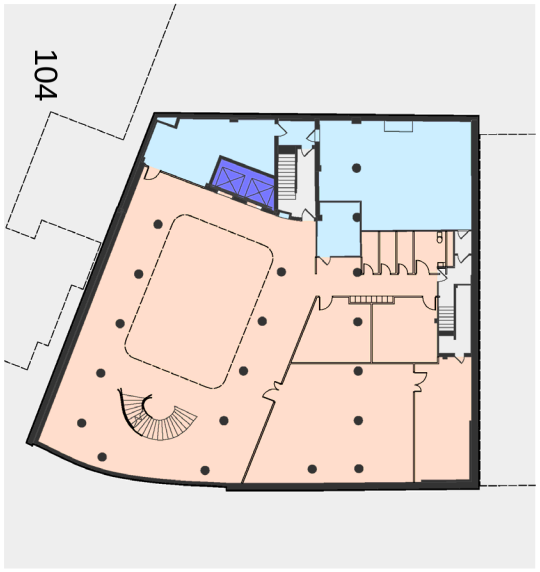


4 EXISTING USE - LEVEL 1
SCALE 1 : 200



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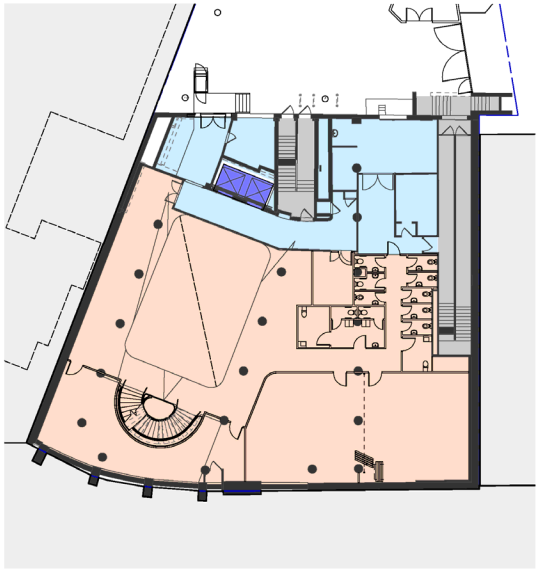

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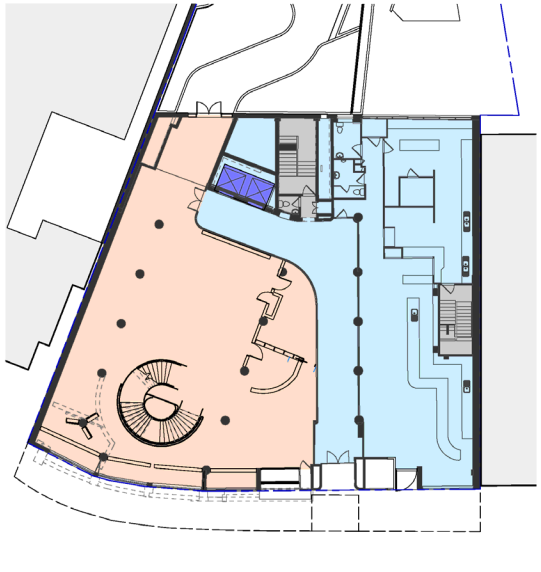

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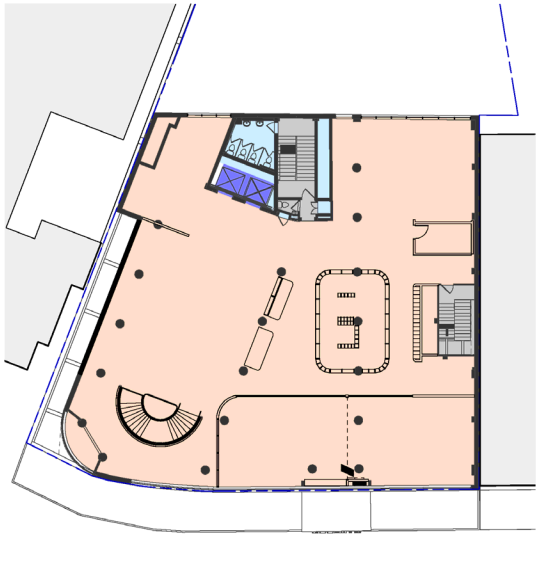

8 PROPOSED USE - LEVEL 1
SCALE 1 : 200

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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SCHOOL
COMMERCIAL / SCHOOL ACCESSIBLE USE ONLY
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Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
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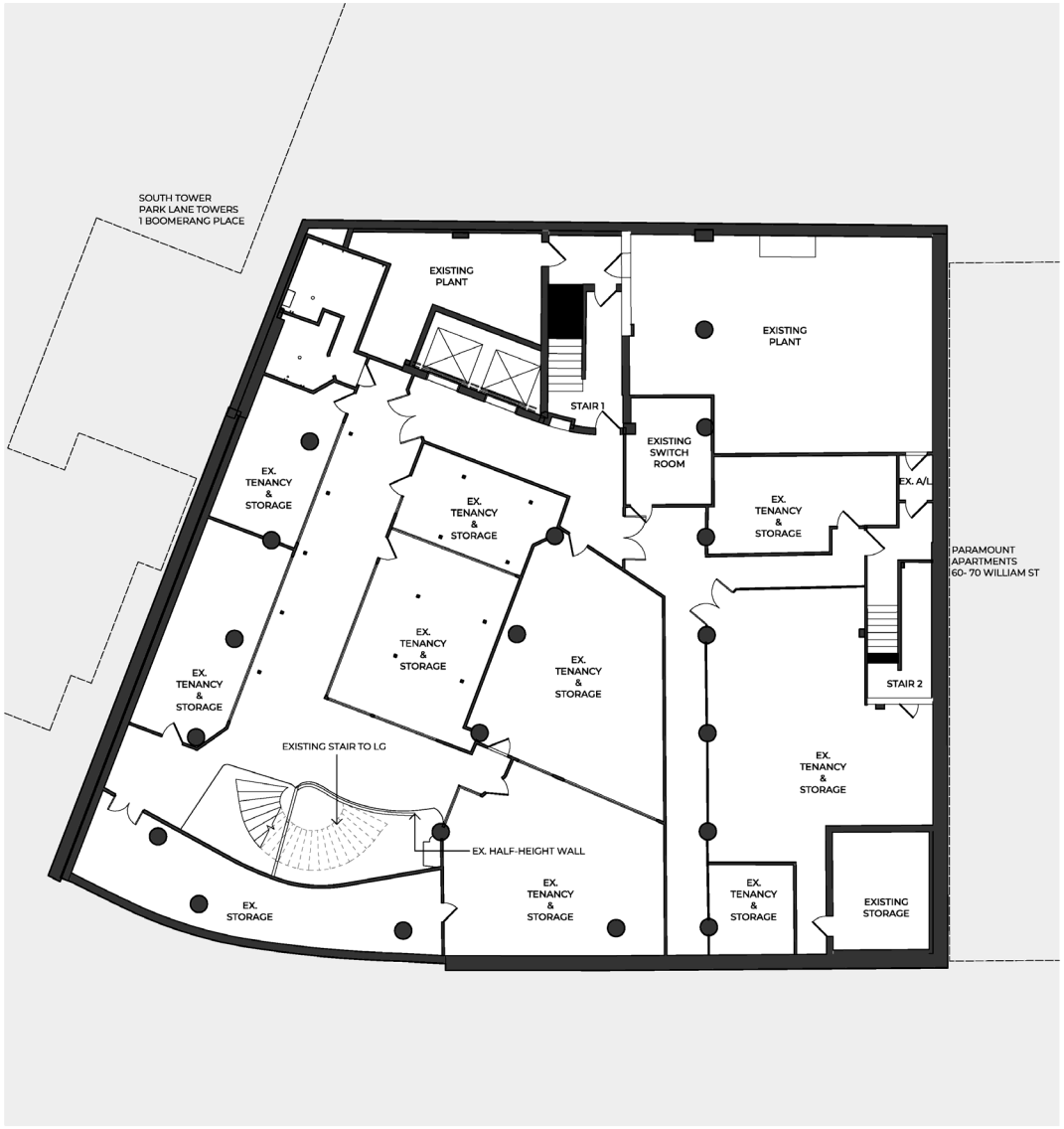
Project number	Size check		
121761	25mm		
Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 200

Sheet title
Overall Arrangement Plan
Proposed Change of Use

Sheet number	Revision
A- DA1200	2

Status
FOR DEVELOPMENT APPLICATION



1 EXISTING PLAN - BASEMENT
SCALE 1 : 100

105

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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EXISTING COMMERCIAL USE NOT IN APPLICATION

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TO BE DEMOLISHED

Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
W—B WOODS BAGOT

Project number	Size check		
121761	25mm		
Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 100

Sheet title
General Arrangement Plan
Existing - Basement Plan

Sheet number	Revision
A- DA2000	2

Status
FOR DEVELOPMENT APPLICATION

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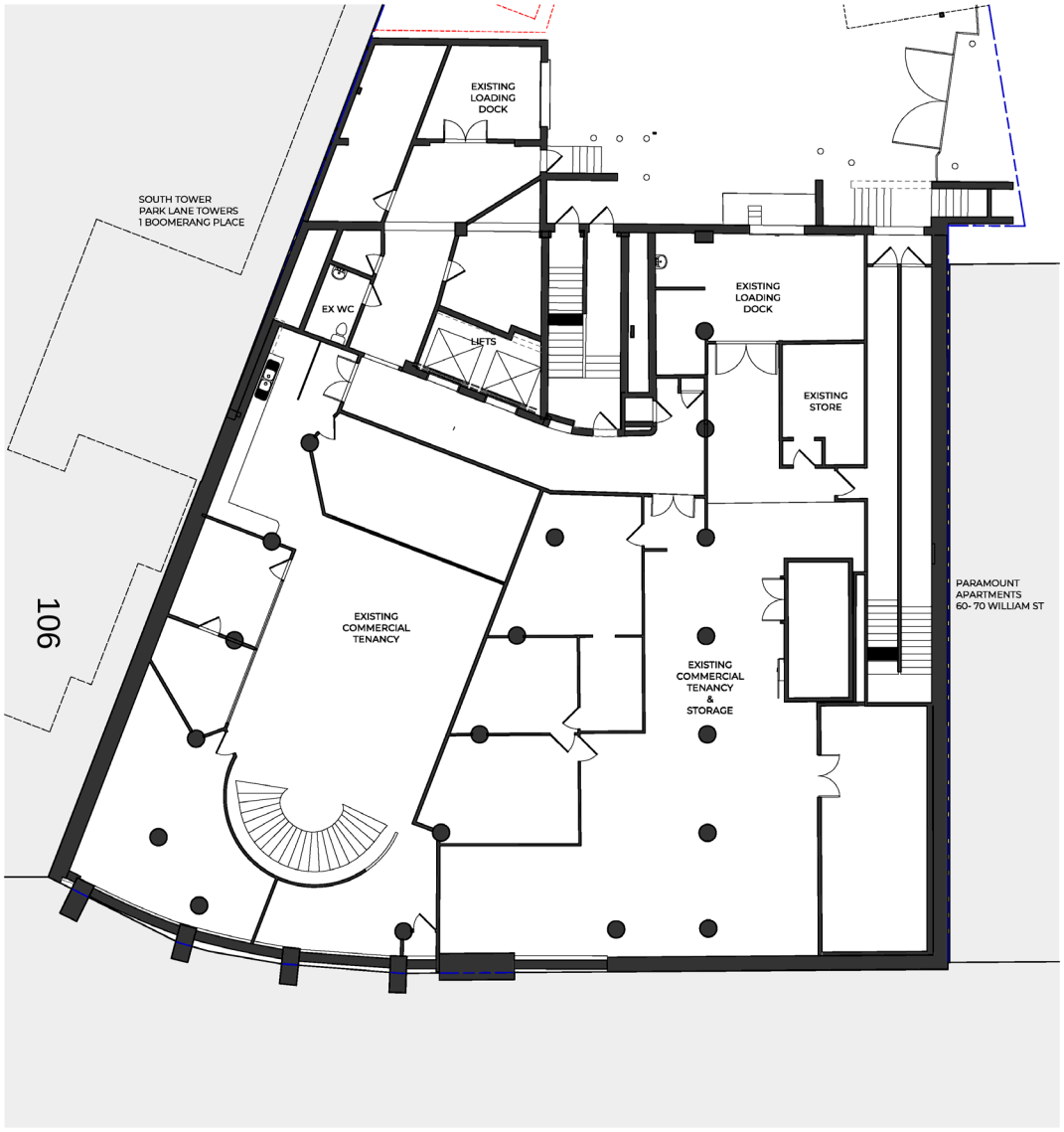
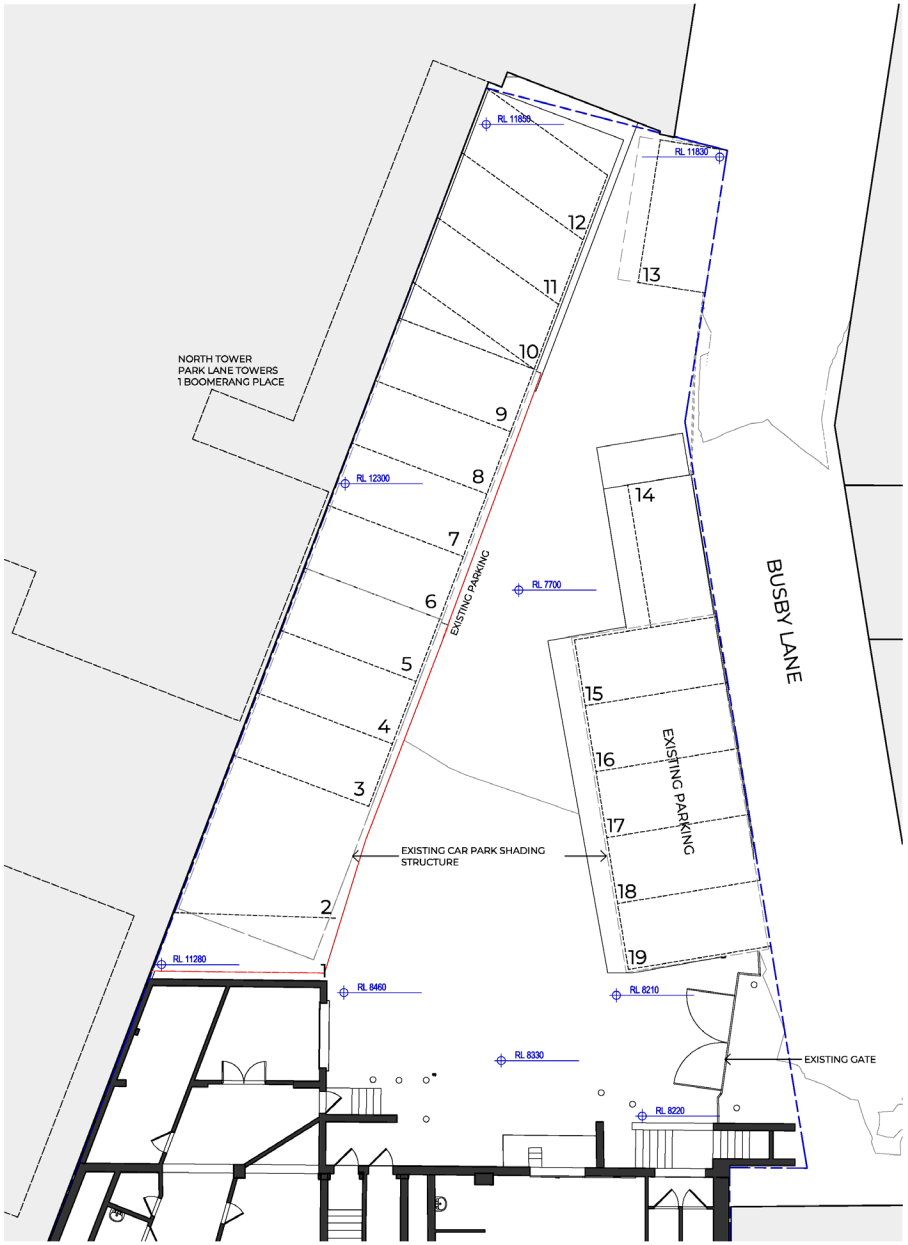


1 EXISTING PLAN - LOWER GROUND
SCALE 1 : 100



2 EXISTING PLAN - LOWER GROUND_OUTDOOR
SCALE 1 : 100

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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St Mary's Cathedral College Expansion

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Project number	Size check
121761	25mm

Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 100

Sheet title
General Arrangement Plan
Existing - Lower Ground

Sheet number	Revision
A- DA2001	2

Status
FOR DEVELOPMENT APPLICATION

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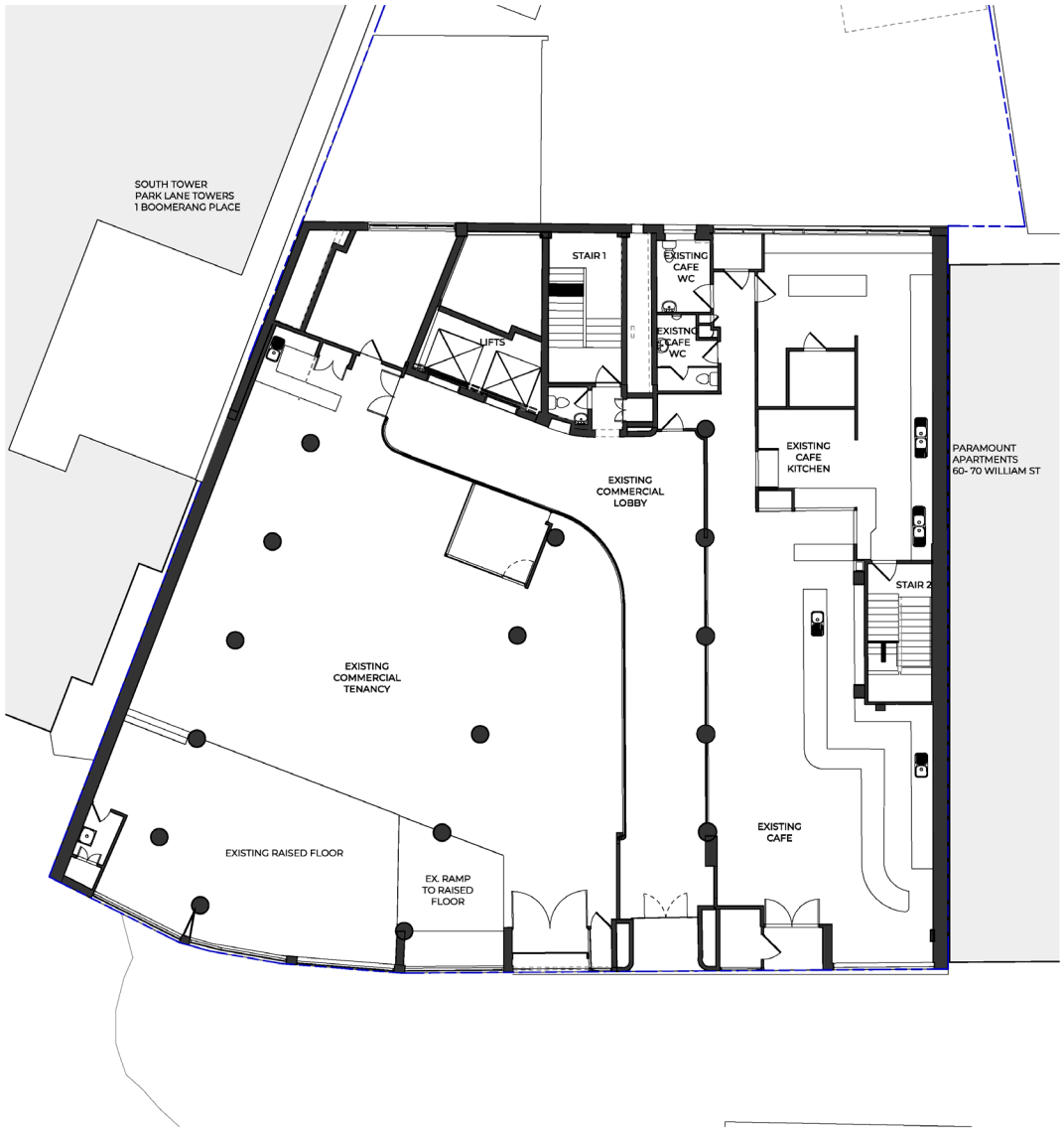

1 EXISTING PLAN - GROUND
SCALE 1 : 100

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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Project number	Size check		
121761	25mm		
Checked	Approved	Sheet size	Scale
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Sheet title
General Arrangement Plan
Existing - Ground Plan

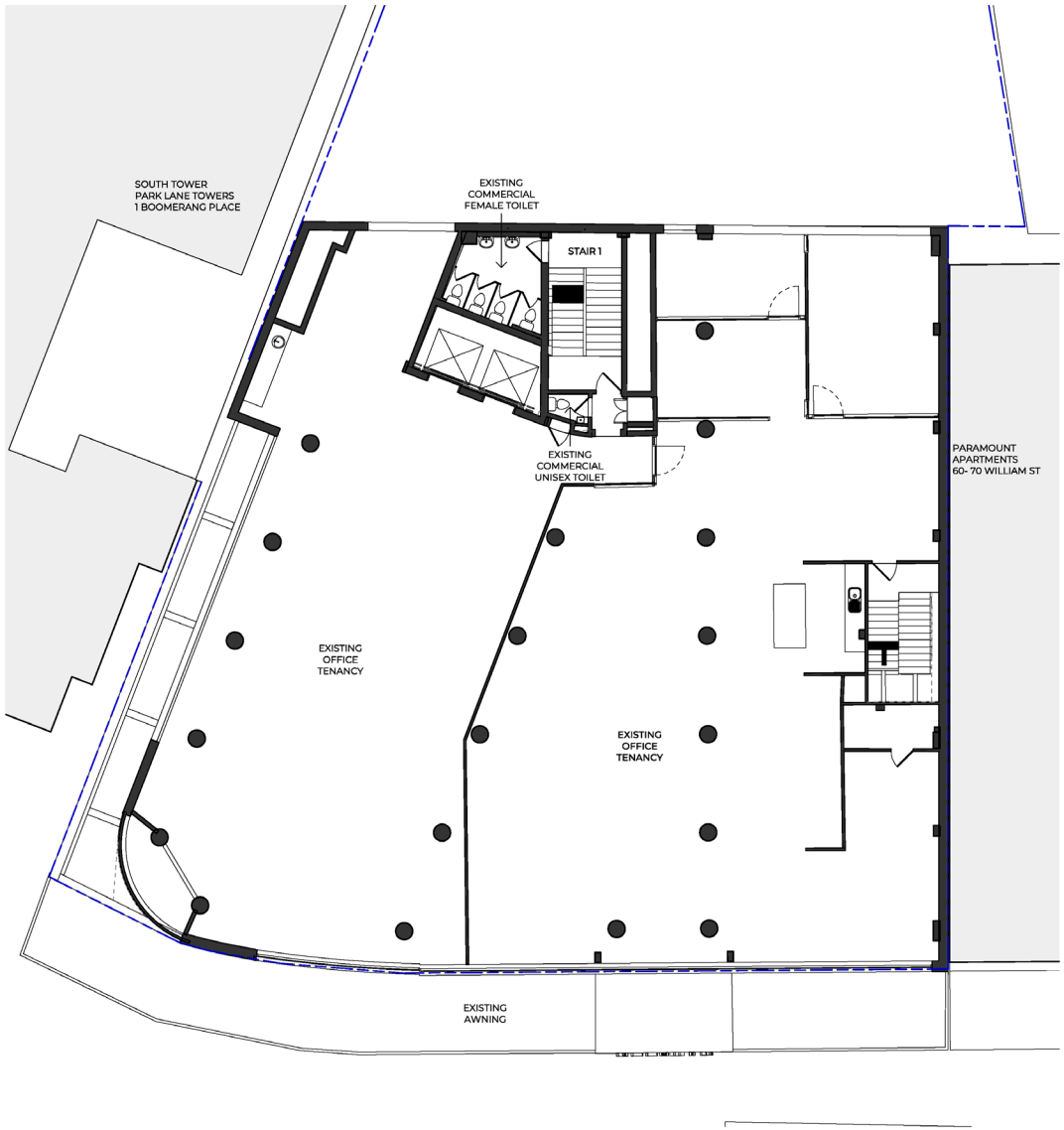
Sheet number	Revision
A- DA2002	2

Status
FOR DEVELOPMENT APPLICATION

Date generated 17/05/2023 5:50:38 PM Autodesk Docs://121761 - St Marys Cathedral College/121761_SMCC_52-58 William St.rvt

Attachment B1

Selected Drawings



1 EXISTING PLAN - LEVEL 1
SCALE 1 : 100

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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Project
St Mary's Cathedral College
Expansion

Client
Sydney Catholic Schools

Issuer
W—B
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Project number	Size check		
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Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 100

Sheet title
General Arrangement Plan
Existing - Level 1 Plan

Sheet number	Revision
A- DA2003	2

Status
FOR DEVELOPMENT
APPLICATION

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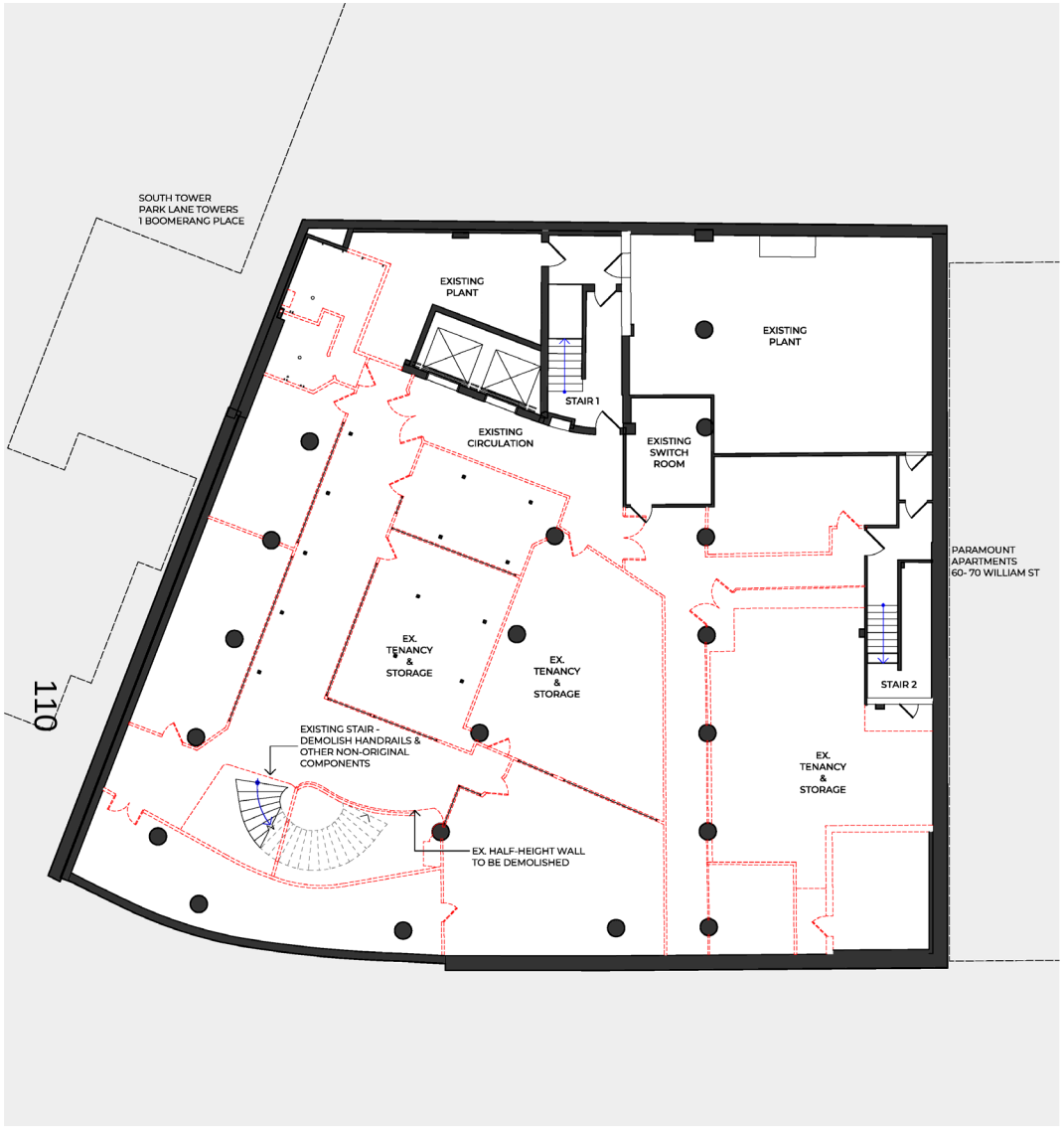
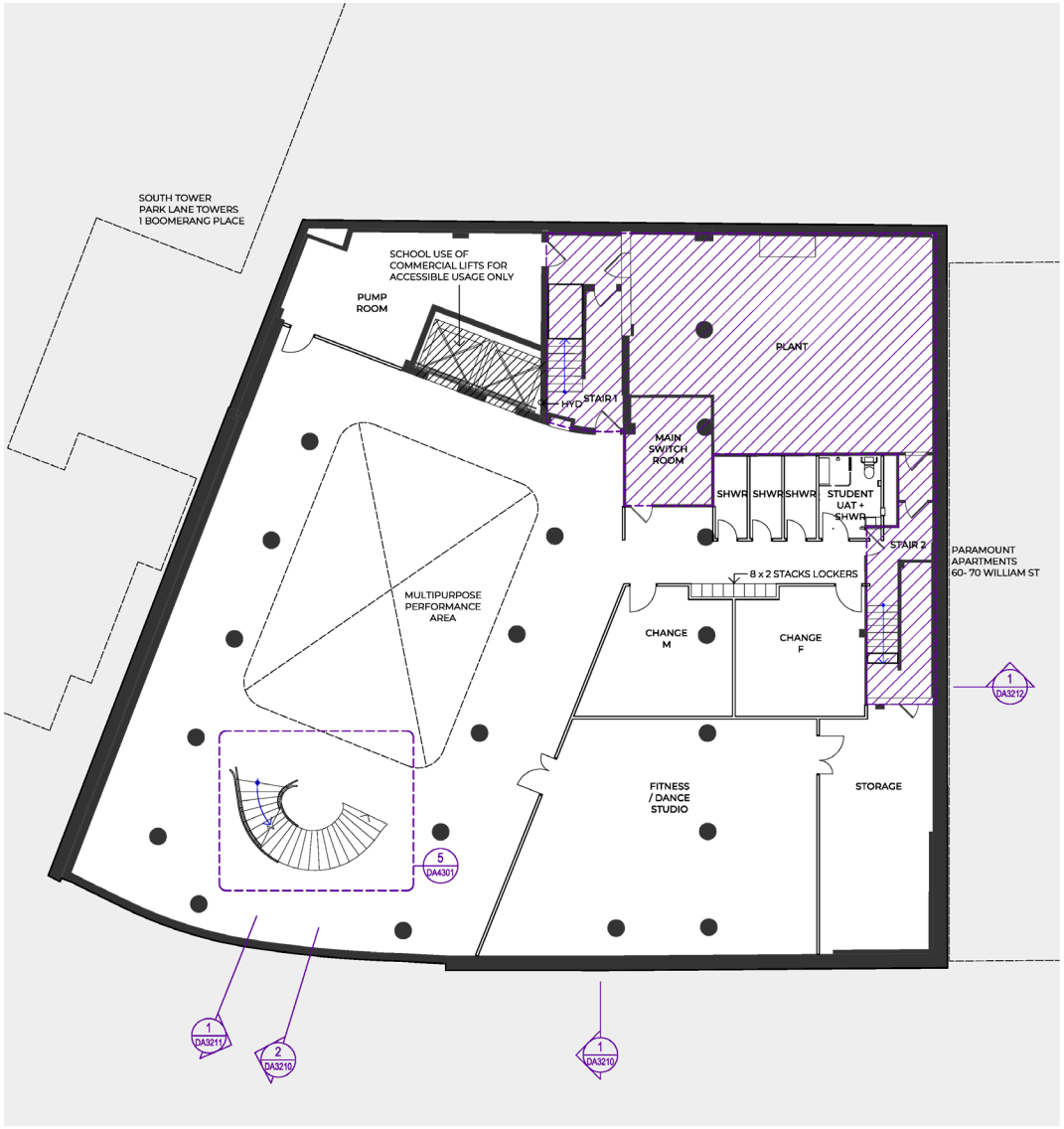


1 EXISTING BASEMENT FLOOR PLAN
SCALE 1 : 100



2 PROPOSED BASEMENT FLOOR PLAN
SCALE 1 : 100

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

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Project number	Size check
121761	25mm

Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 100

Sheet title
General Arrangement Plan
Demolition & Proposed - Basement Plan

Sheet number	Revision
A- DA2200	2

Status
FOR DEVELOPMENT APPLICATION

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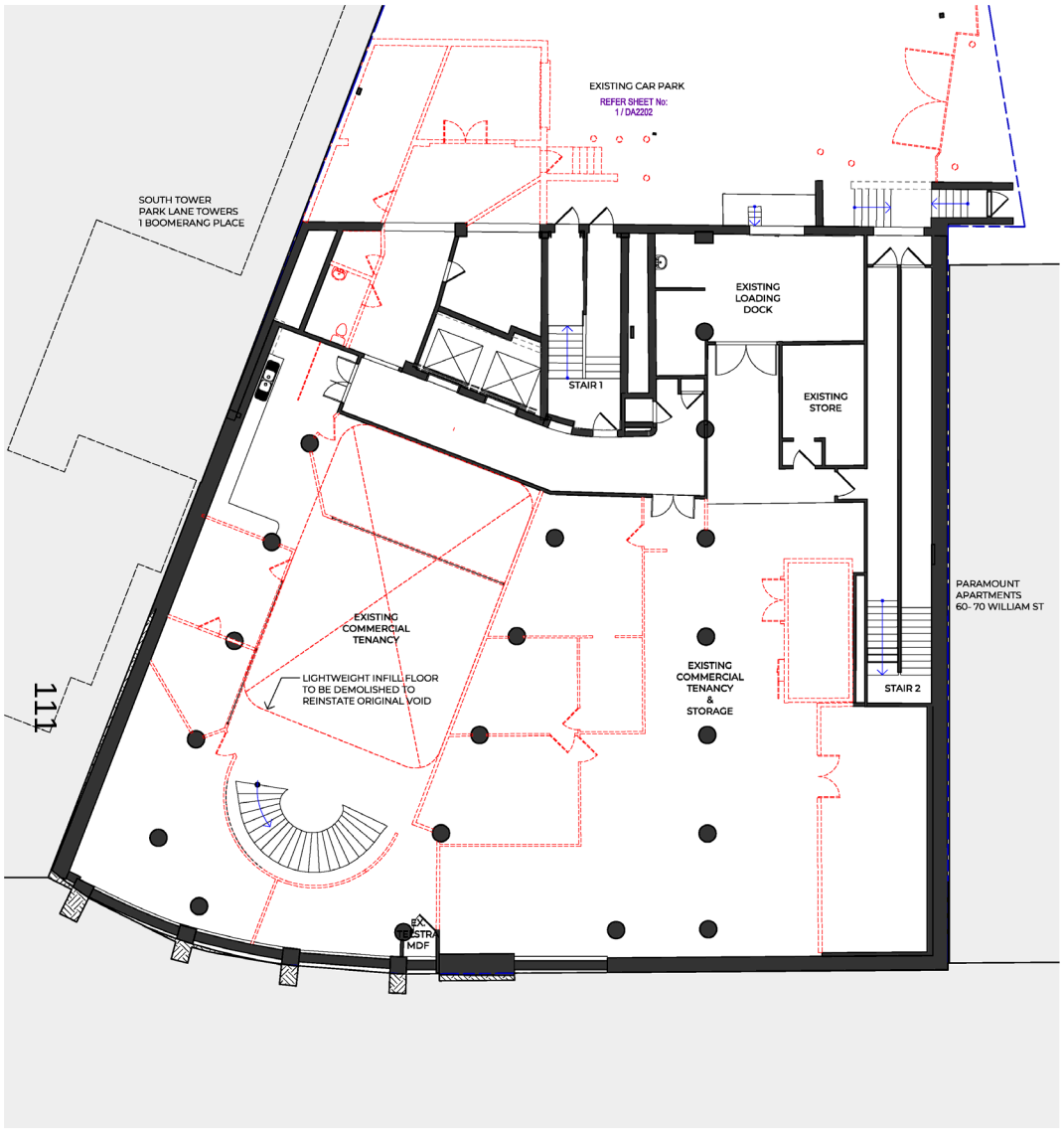
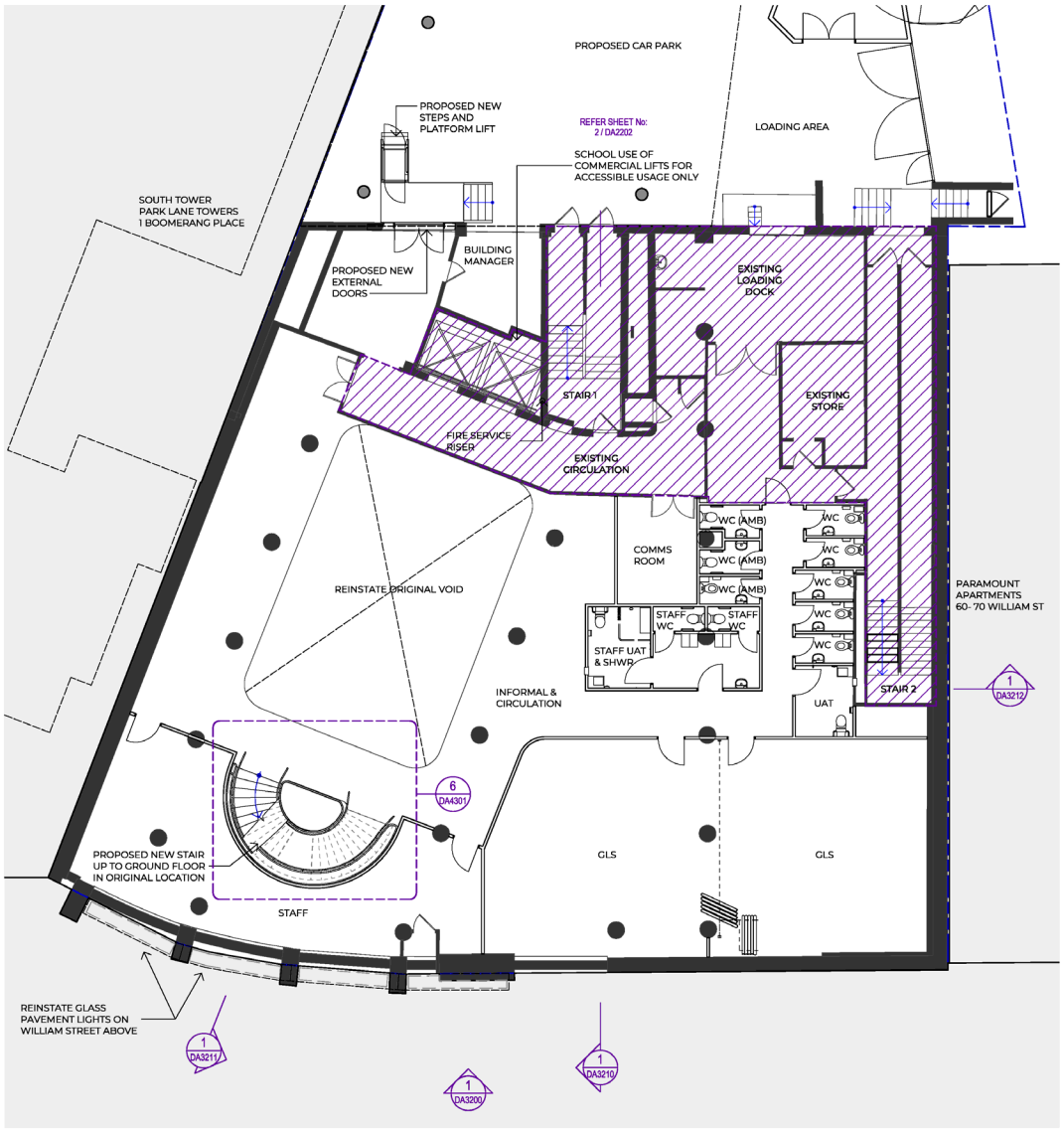


1 EXISTING LOWER GROUND FLOOR PLAN
SCALE 1 : 100



2 PROPOSED LOWER GROUND FLOOR PLAN
SCALE 1 : 100

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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Project
St Mary's Cathedral College
Expansion

Client
Sydney Catholic Schools

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Project number	Size check
121761	25mm

Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 100

Sheet title
General Arrangement Plan
Demolition & Proposed - Lower
Ground Plan

Sheet number	Revision
A- DA2201	2

Status
FOR DEVELOPMENT
APPLICATION

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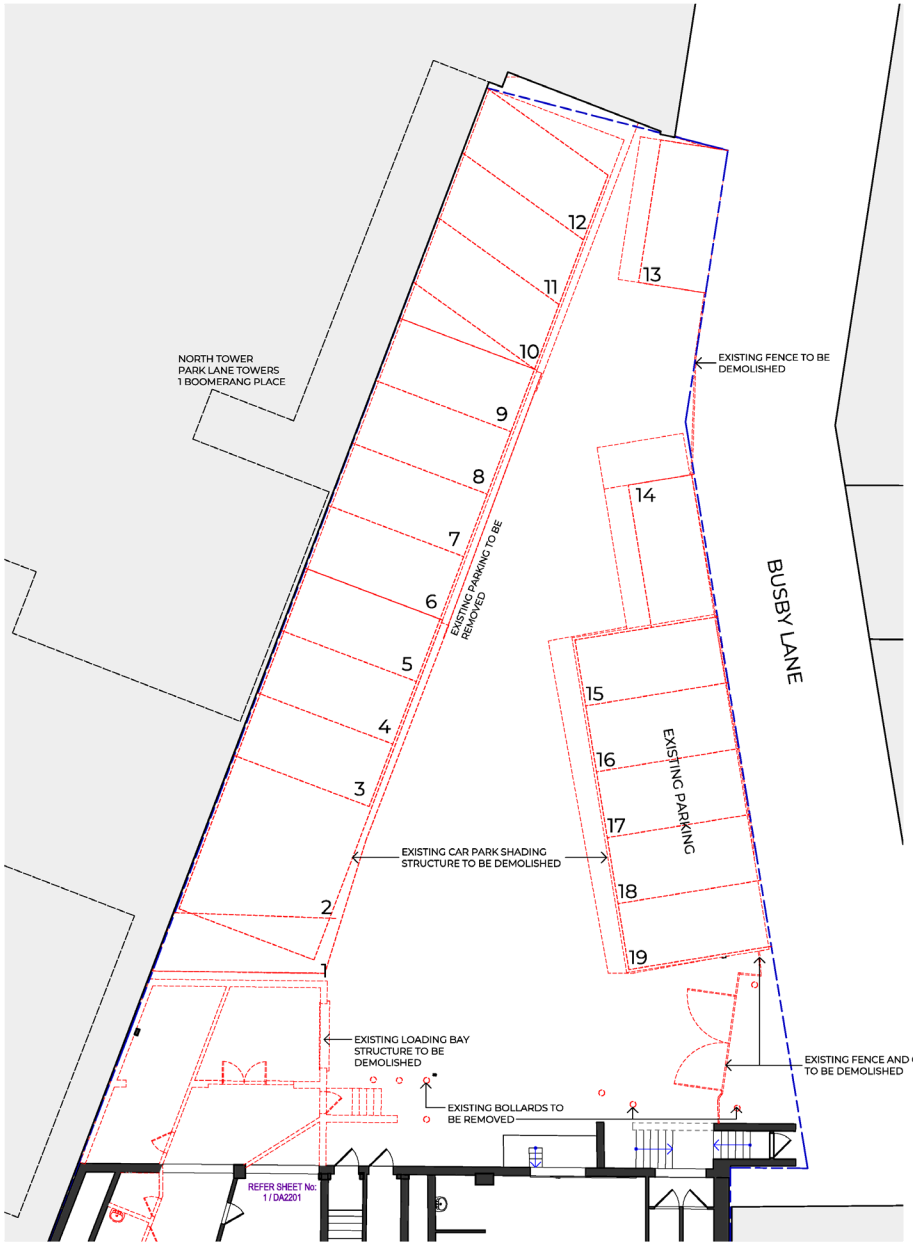
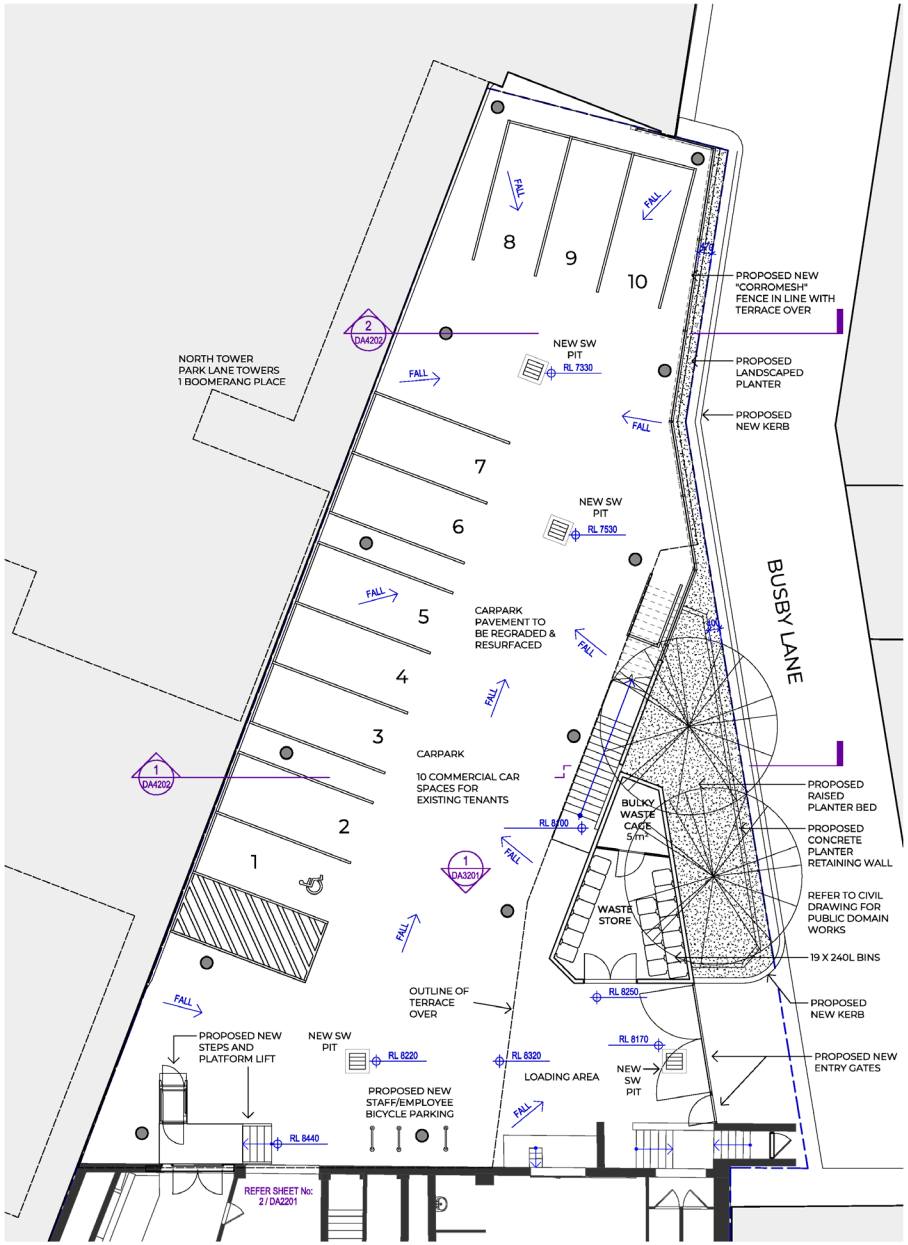


1 LOWER GROUND FLOOR EXTERNAL DEMOLITION PLAN
SCALE 1 : 100



2 PROPOSED EXTERNAL LOWER GROUND FLOOR PLAN
SCALE 1 : 100

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23
3	For Information	Response to Submissions	28/06/23
4	For Information	Response to Submissions	26/07/23
5	For Information	Response to Submission	01/09/23

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Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
W—B WOODS BAGOT

Project number 121761
Size check 25mm
Checked CS
Approved CS
Sheet size A1
Scale 1 : 100

Sheet title
General Arrangement Plan Demolition & Proposed - Lower Ground External

Sheet number A- DA2202
Revision 5

Status
FOR DEVELOPMENT APPLICATION

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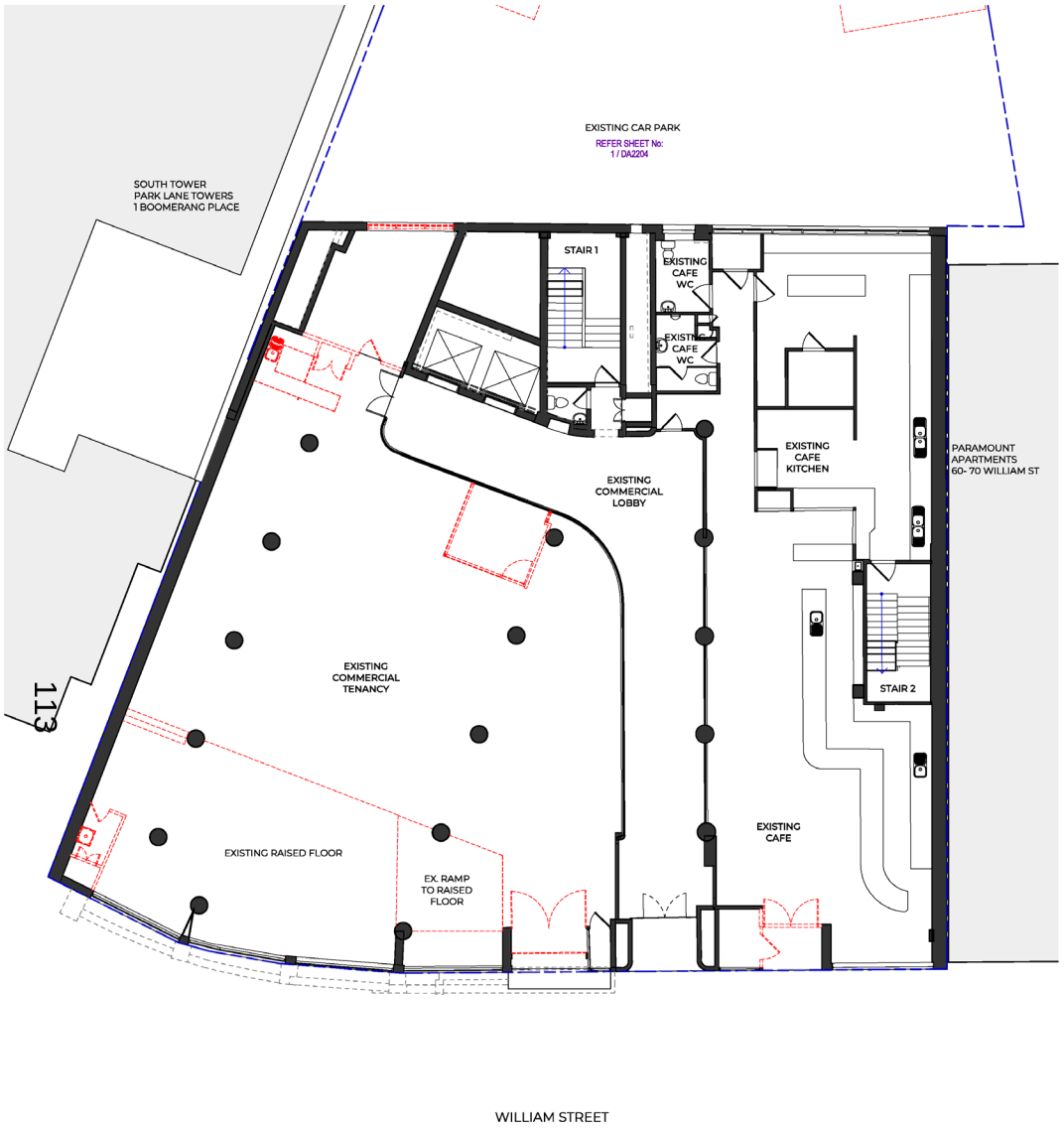

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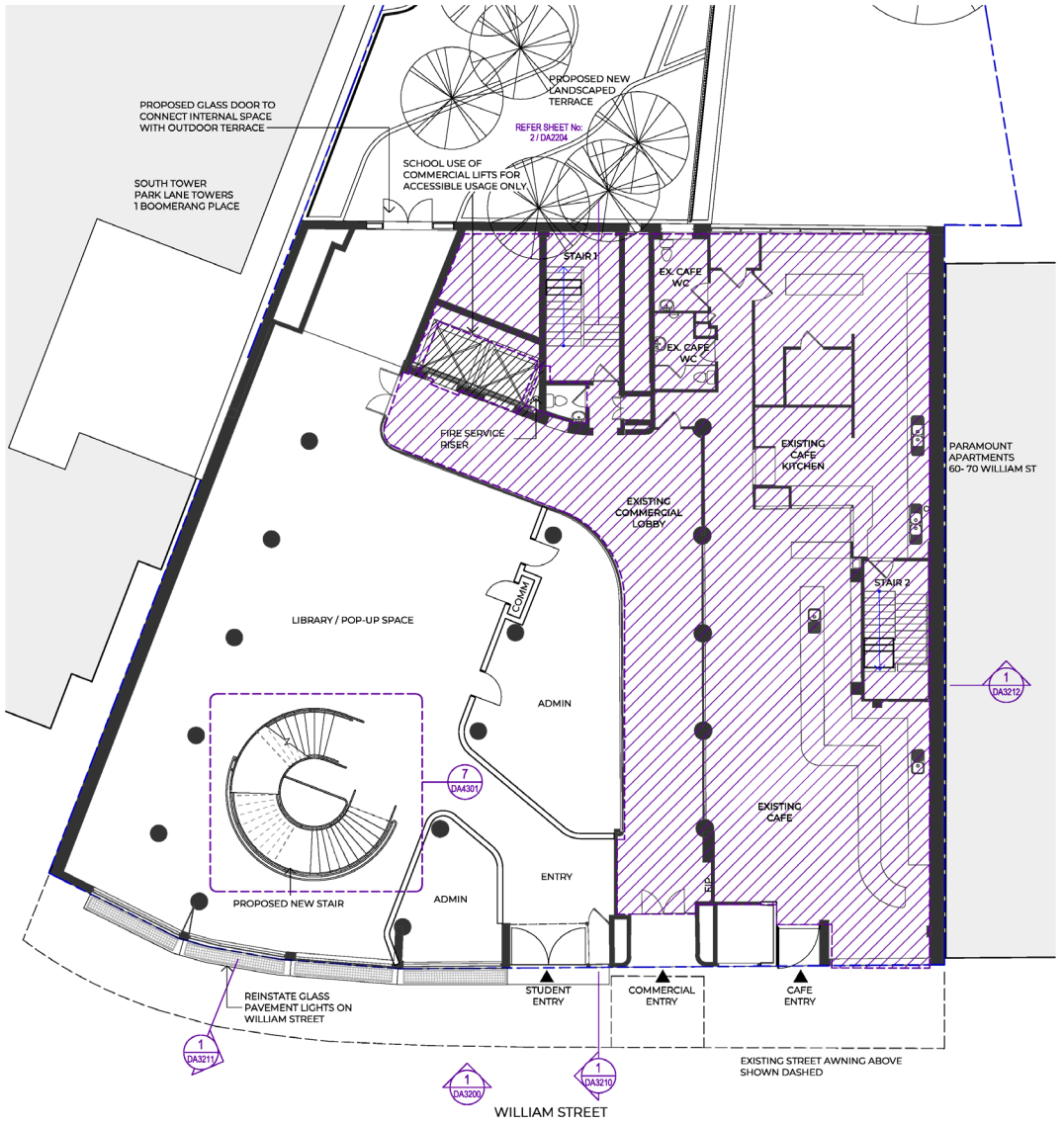
SCALE 1 : 100



2 PROPOSED GROUND FLOOR PLAN
SCALE 1 : 100

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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Project
St Mary's Cathedral College Expansion

Client
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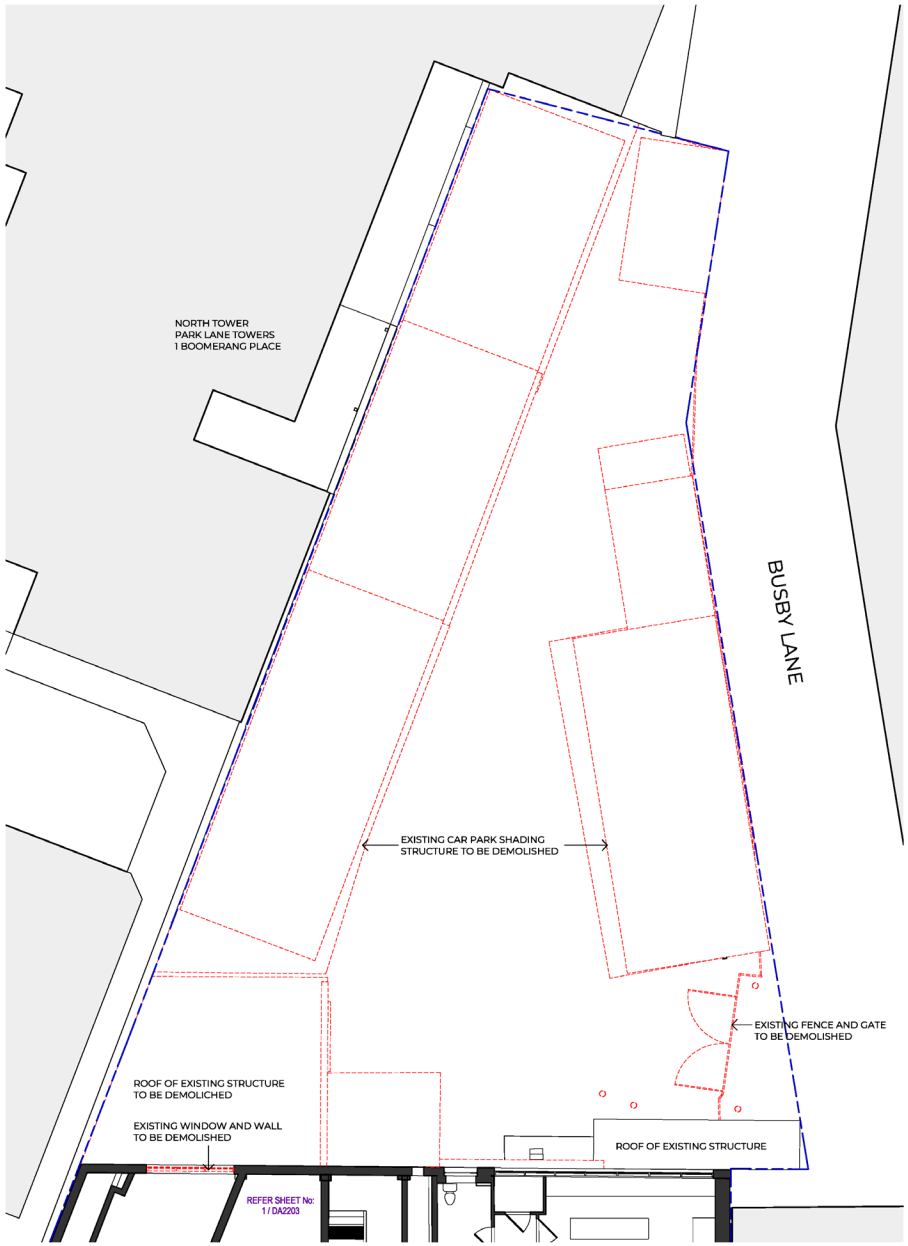
Project number	Size check
121761	25mm

Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 100

Sheet title
General Arrangement Plan Demolition & Proposed - Ground Plan

Sheet number	Revision
A- DA2203	2

Status
FOR DEVELOPMENT APPLICATION



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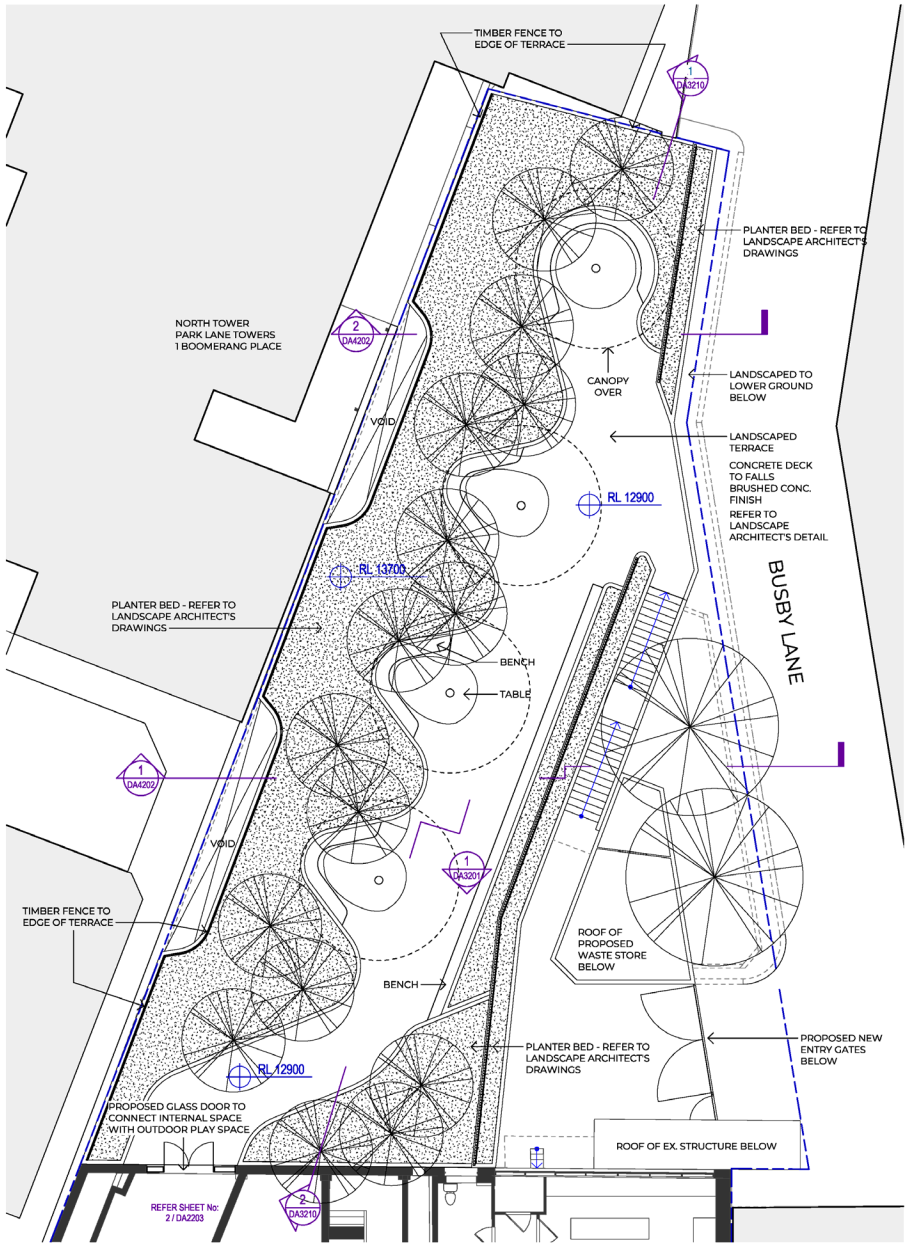
SCALE 1 : 100



2 PROPOSED EXTERNAL GROUND FLOOR PLAN
SCALE 1 : 100

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23
3	For Information	Response to Submissions	26/07/23
4	For Information	Response to Submission	01/09/23
5	For Information	Response to Submissions	29/09/23

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Project
St Mary's Cathedral College
Expansion

Client
Sydney Catholic Schools

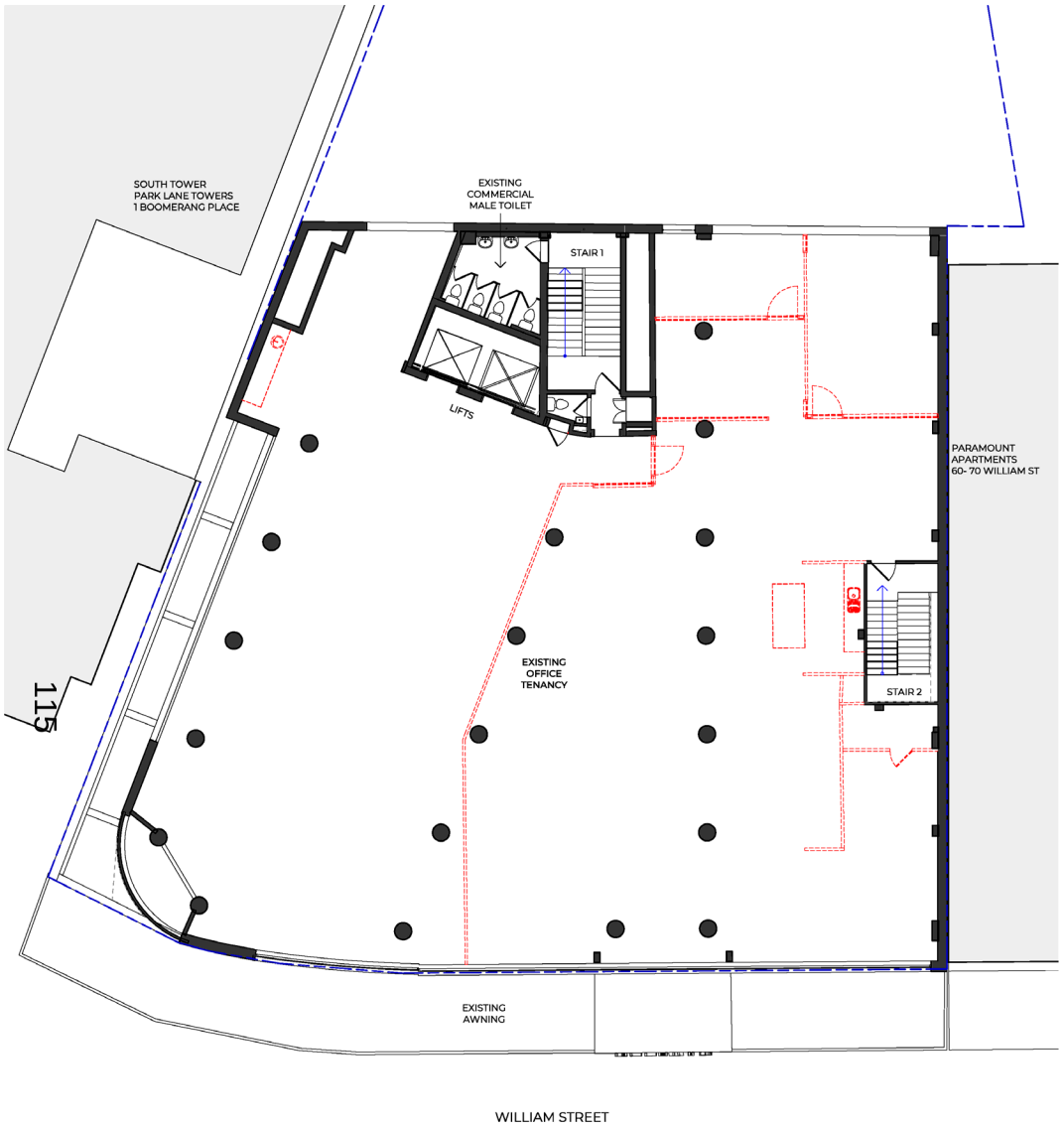
Issuer
W–B
WOODS BAGOT

Project number 121761
Size check 25mm
Checked CS
Approved CS
Sheet size A1
Scale 1 : 100

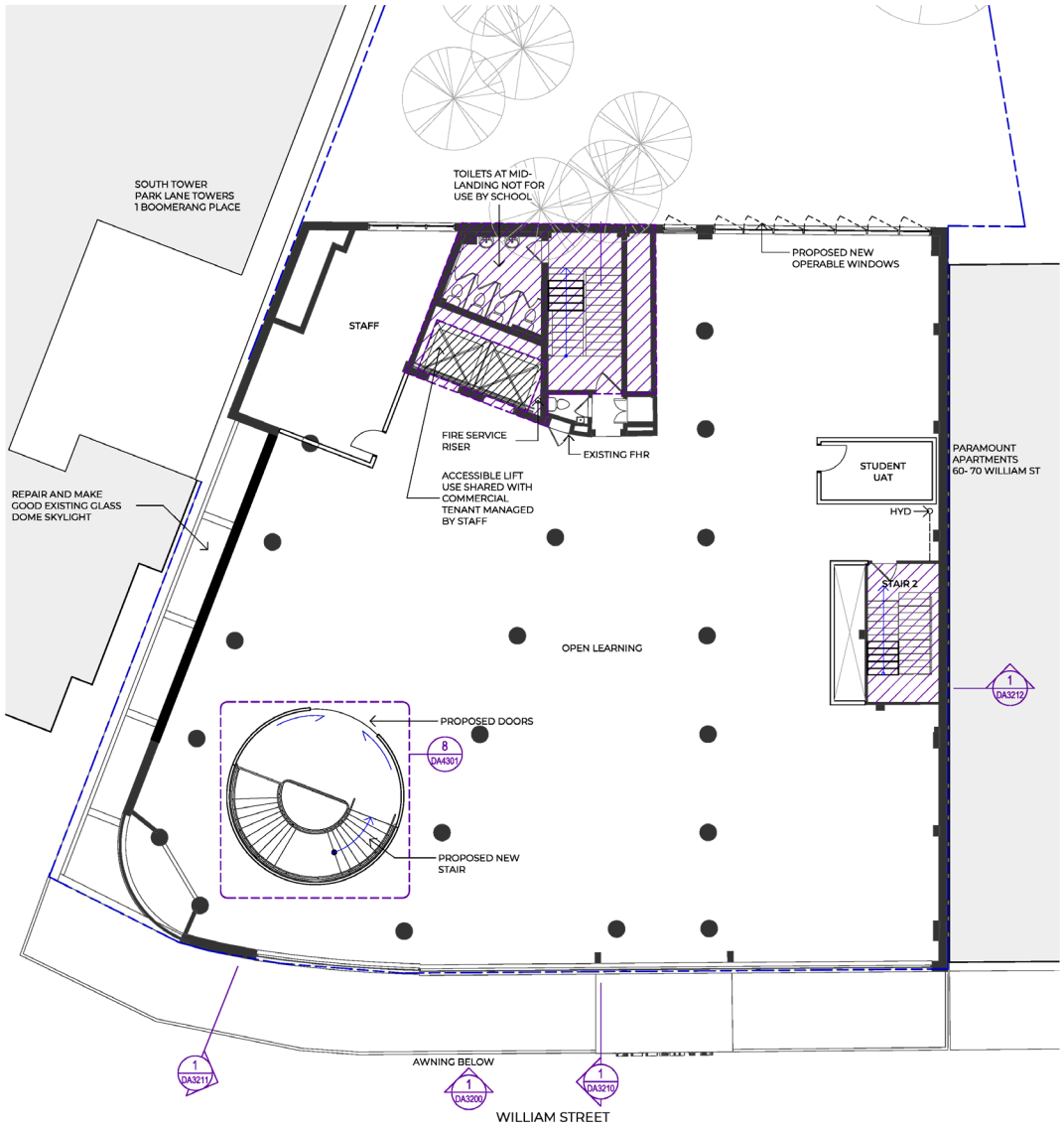
Sheet title
General Arrangement Plan
Demolition & Proposed - Ground
Plan External

Sheet number A- DA2204
Revision 5

Status
FOR DEVELOPMENT
APPLICATION



1 EXISTING LEVEL 1 FLOOR PLAN
SCALE 1 : 100



2 PROPOSED LEVEL 1 FLOOR PLAN
SCALE 1 : 100

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

Notes

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NOT IN APPLICATION

BOUNDARY

TO BE DEMOLISHED

Project
St Mary's Cathedral College
Expansion

Client
Sydney Catholic Schools

Issuer
W—B
WOODS BAGOT

Project number	Size check
121761	25mm

Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 100

Sheet title
General Arrangement Plan
Demolition & Proposed - Level 1 Plan

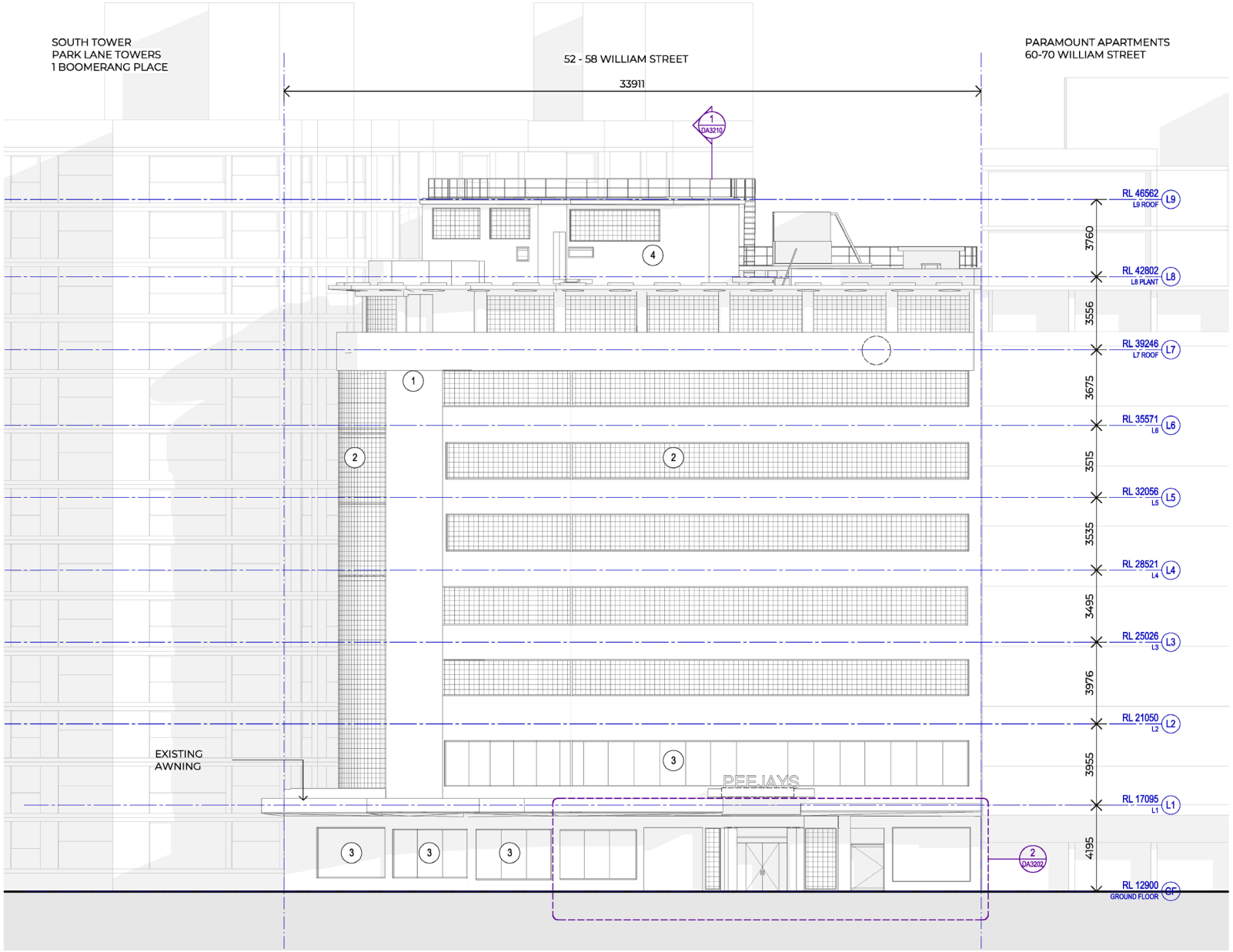
Sheet number	Revision
A- DA2205	2

Status
FOR DEVELOPMENT
APPLICATION

Date generated 17/05/2023 5:51:06 PM Autodesk Docs://121761 - St Marys Cathedral College/121761_SMCC_52-58 William St.rvt

Attachment B2

Selected Drawings



1 SOUTH ELEVATION
SCALE 1 : 100

MATERIAL & FINISHES

1. EXISTING GLASS MOSAIC TILE
2. EXISTING GLASS BLOCK
3. EXISTING CLEAR GLASS
4. EXISTING ROOF PLANT
5. EXISTING ROLLER SHUTTER
6. EXISTING GLASS DOOR
7. EXISTING BRONZE METAL TRIM
8. PROPOSED BRONZE METAL TRIM TO MATCH EXISTING
9. PROPOSED NEW AUTOMATIC DOOR

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
W—B
WOODS BAGOT

Project number 121761
Size check 20mm
Checked CS
Approved CS
Sheet size A1
Scale 1 : 100

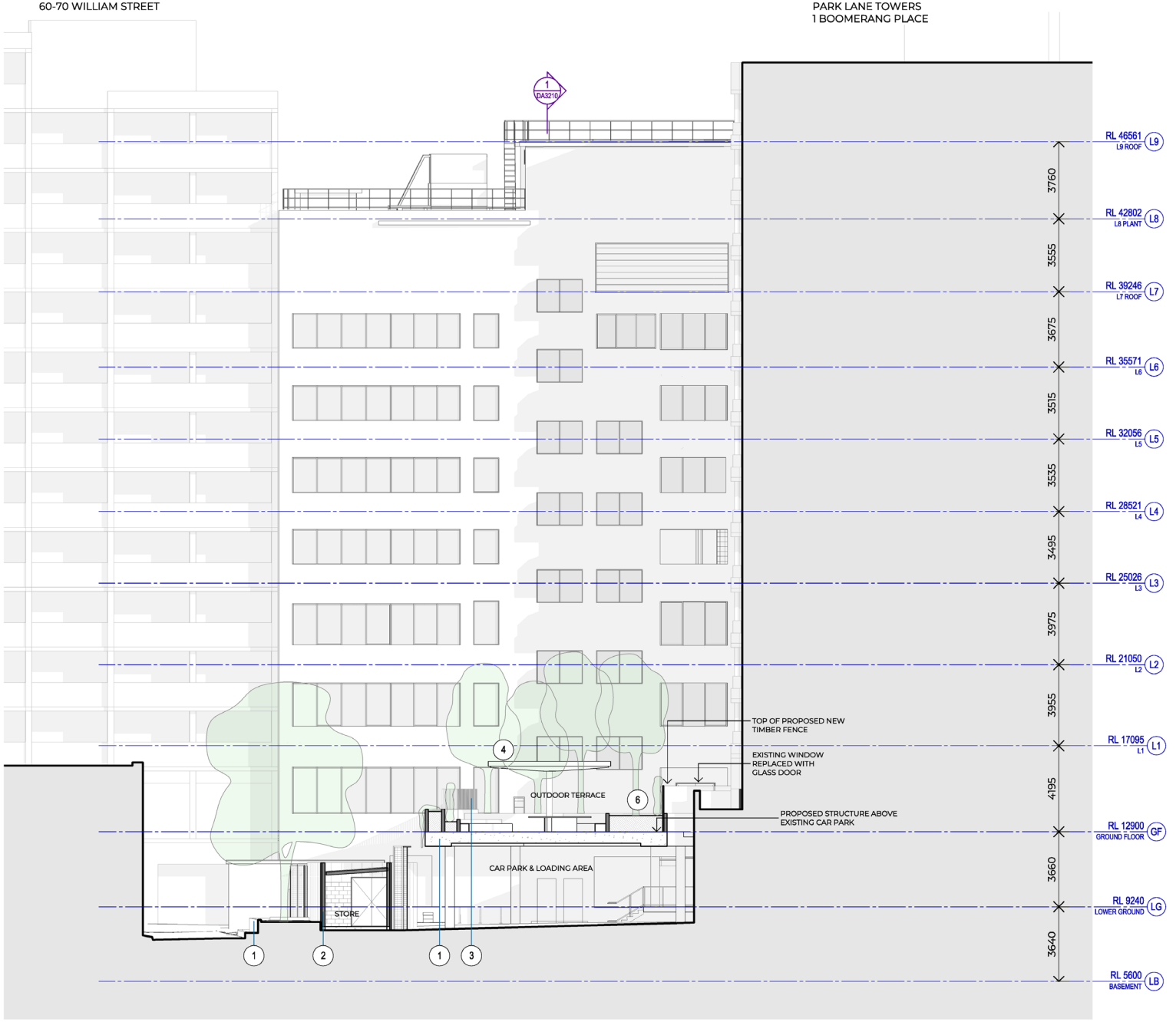
Sheet title
General Arrangement Elevations South Elevation

Sheet number A-DA3200
Revision 2
Status FOR DEVELOPMENT APPLICATION

PARAMOUNT APARTMENTS
60-70 WILLIAM STREET

52 - 58 WILLIAM STREET

SOUTH TOWER
PARK LANE TOWERS
1 BOOMERANG PLACE



1 NORTH ELEVATION
SCALE 1 : 100

118

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23
3	For Information	Response to Submissions	29/09/23

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Shared Commercial use space -
Not for General school access - School access only for accessible lift use and fire egress

Tenancy Space

Boundary

To be demolished

MATERIAL & FINISHES

1. CONCRETE (CLASS 2 FINISH)
2. STANDING SEAM METAL CLADDING COLORBOND "BASALT"
3. STEEL RAILING DARK GREY POWDERCOAT FINISH HEDGE IN FRONT (NOT SHOWN)
4. STEEL CANOPY STRUCTURE, GREEN POWDERCOAT FINISH
5. BLACK "CORROMESH" STEEL FENCE
6. TIMBER FENCE - HEDGE IN FRONT (NOT SHOWN)

Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
W—B WOODS BAGOT

Project number	Size check
121761	25mm

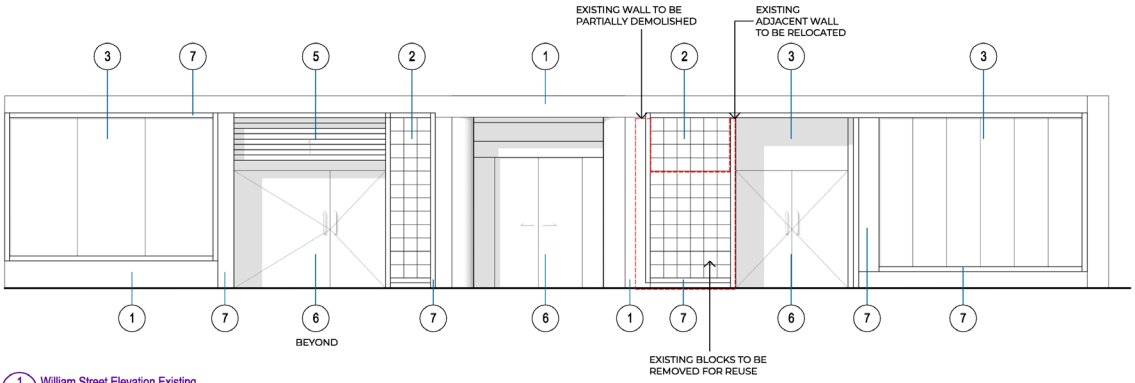
Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 100

Sheet title
General Arrangement Elevations North Elevation

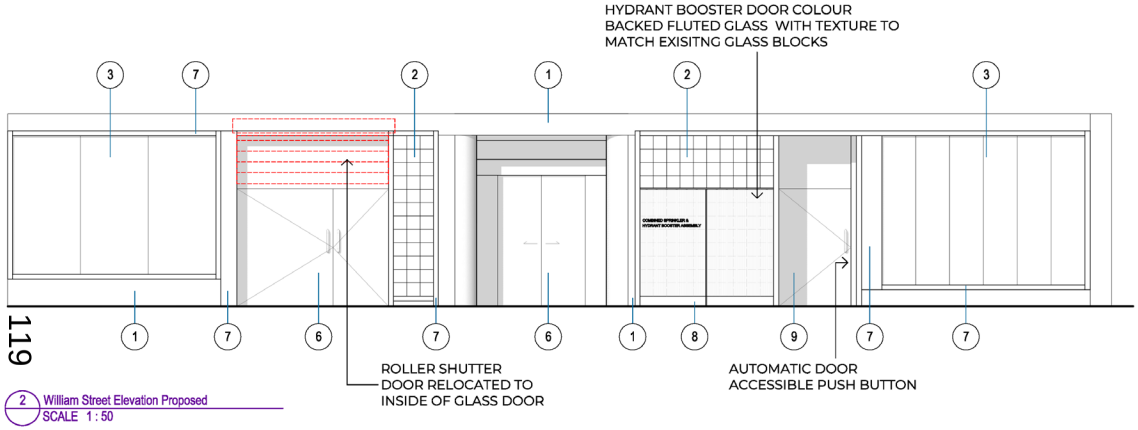
Sheet number	Revision
A-DA3201	3

Status
FOR DEVELOPMENT APPLICATION

Date generated 29/09/2023 4:35:58 PM Autodesk Docs://121761 - St Marys Cathedral College/121761_SMCC_52-58 William St.rvt



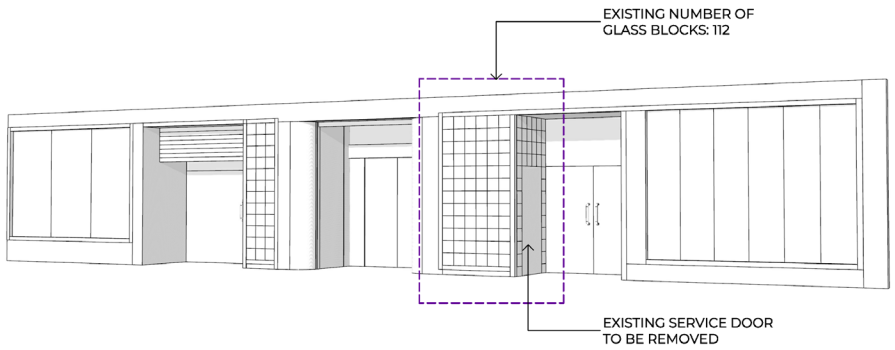
1 William Street Elevation Existing
SCALE 1 : 50



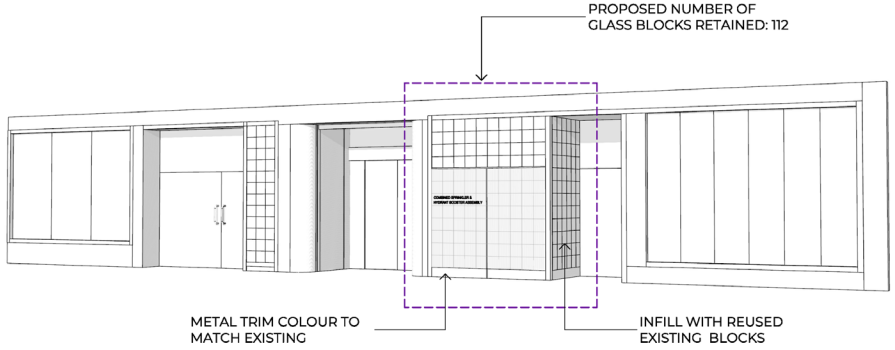
2 William Street Elevation Proposed
SCALE 1 : 50

MATERIAL & FINISHES

1. EXISTING GLASS MOSAIC TILE
2. EXISTING GLASS BLOCK
3. EXISTING CLEAR GLASS
4. EXISTING ROOF PLANT
5. EXISTING ROLLER SHUTTER
6. EXISTING GLASS DOOR
7. EXISTING BRONZE METAL TRIM
8. PROPOSED BRONZE METAL TRIM TO MATCH EXISTING
9. PROPOSED NEW AUTOMATIC DOOR



3 Existing 3D



4 Proposed 3D

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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BOUNDARY

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Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
W—B WOODS BAGOT

Project number	Size check
121761	20mm

Checked	Approved	Sheet size	Scale
CS	CS	A1	As indicated

Sheet title
General Arrangement Elevations Street Frontage Elevation

Sheet number	Revision
A-DA3202	2

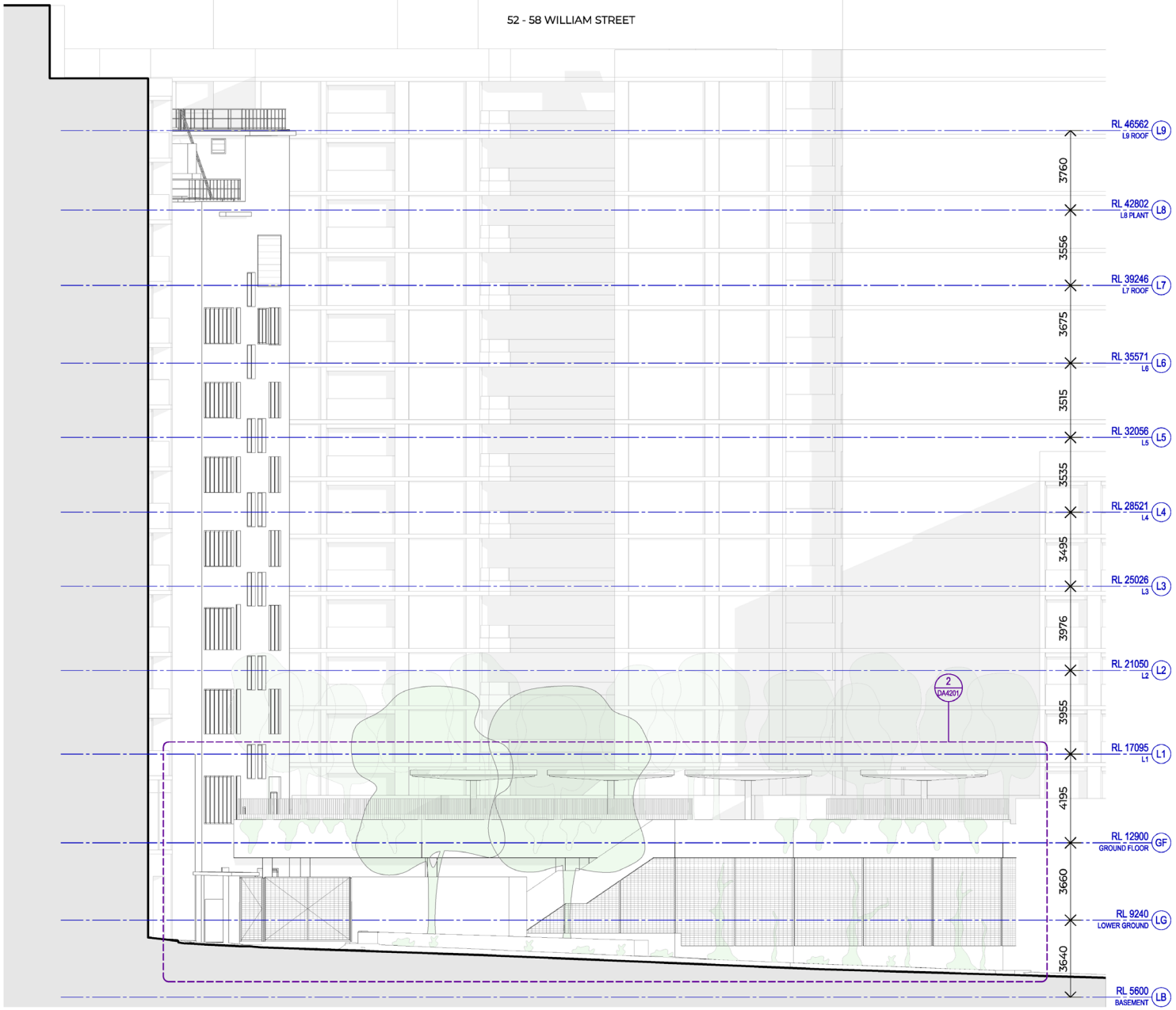
Status
FOR DEVELOPMENT APPLICATION

PARAMOUNT APARTMENTS
60-70 WILLIAM STREET

SOUTH TOWER
PARK LANE TOWERS
1 BOOMERANG PLACE (BEYOND)

52 - 58 WILLIAM STREET

NORTH TOWER
PARK LANE TOWERS
1 BOOMERANG PLACE (BEYOND)



1 BUSBY LANE ELEVATION 2
SCALE 1 : 100

120

Recent revision history

#	Status	Description	Date
1	For Information	Response to Submissions	17/05/23

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Project
St Mary's Cathedral College Expansion

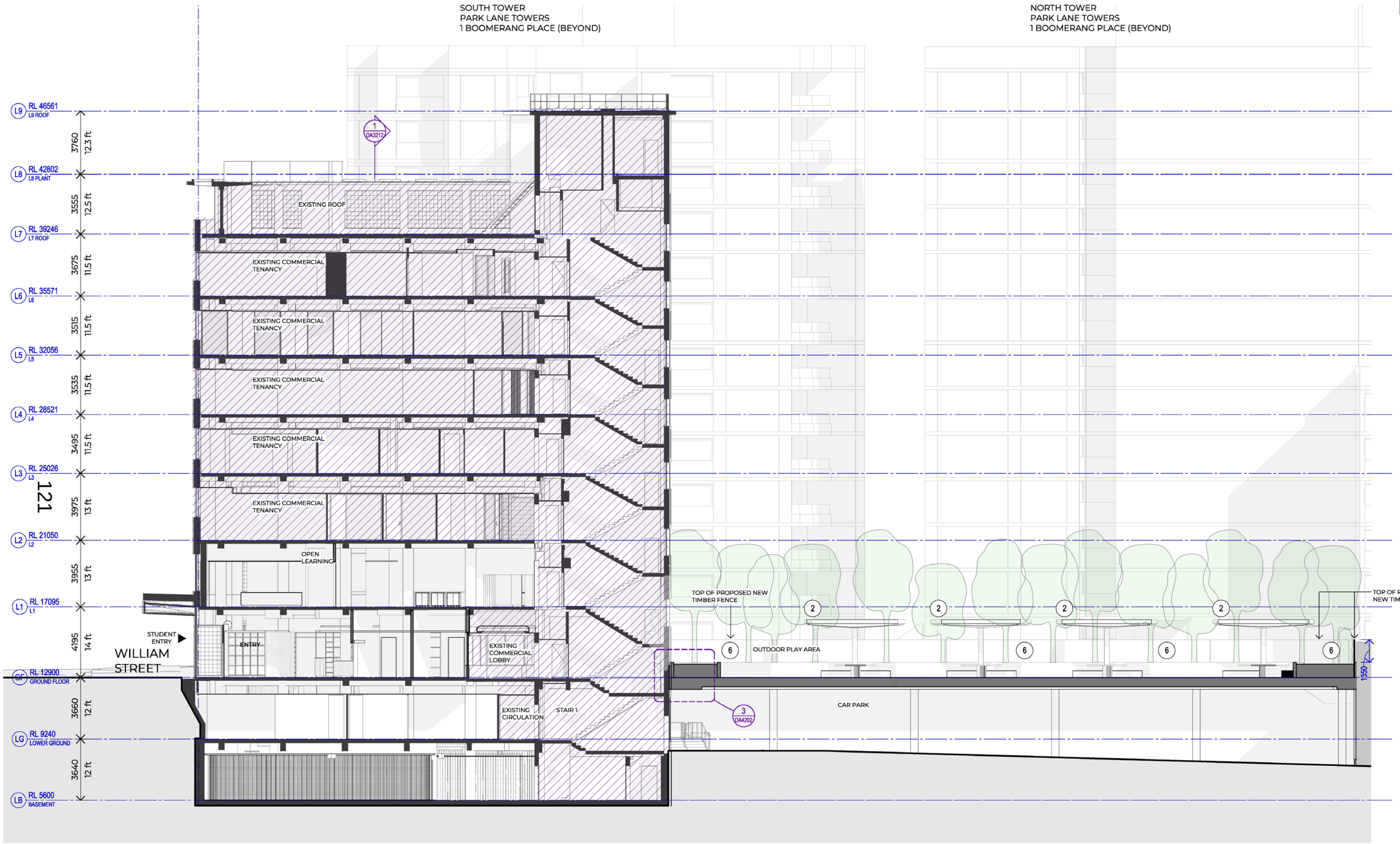
Client
Sydney Catholic Schools

Issuer
W—B
WOODS BAGOT

Project number 121761
Size check 20mm
Checked CS
Approved CS
Sheet size A1
Scale 1 : 100

Sheet title
Busby Lane Elevation

Sheet number A-DA3203
Revision 1
Status FOR DEVELOPMENT APPLICATION



1 SECTION 1
SCALE 1 : 100

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23
3	For Information	Response to Submissions	29/09/23

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Shared Commercial use space - Not for General school access - School access only for accessible lift use and fire egress
Tenancy Space
Boundary
To be demolished

MATERIAL & FINISHES

1 CONCRETE (CLASS 2 FINISH)
2 STANDING SEAM METAL CLADDING COLORBOND "BASALT"
3 STEEL RAILING DARK GREY POWDERCOAT FINISH HEDGE IN FRONT (NOT SHOWN)
4 STEEL CANOPY STRUCTURE, GREEN POWDERCOAT FINISH
5 BLACK "CORROMESH" STEEL FENCE
6 TIMBER FENCE - HEDGE IN FRONT (NOT SHOWN)

Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
W—B WOODS BAGOT

Project number	Size check
121761	25mm

Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 100

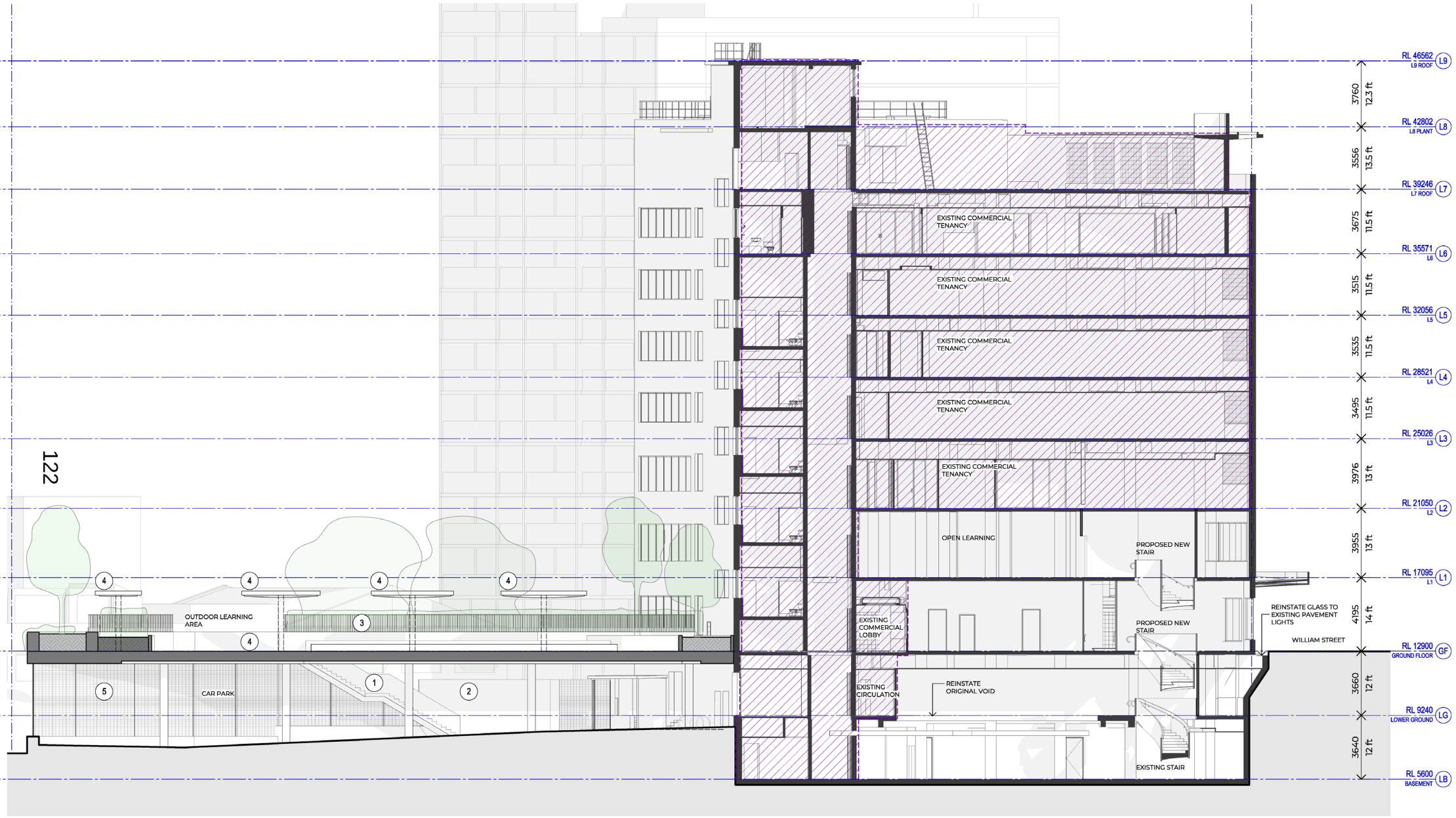
Sheet title
General Arrangement Sections Section 1

Sheet number	Revision
A-DA3210	3

Status
FOR DEVELOPMENT APPLICATION

PARAMOUNT APARTMENTS
60-70 WILLIAM STREET (BEYOND)

52 - 58 WILLIAM STREET



1 SECTION 2
SCALE 1 : 100

Recent revision history

#	Status	Description	Date
1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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BOUNDARY

TO BE DEMOLISHED

MATERIAL & FINISHES

1. CONCRETE (CLASS 2 FINISH)
2. STANDING SEAM METAL CLADDING COLORBOND "BASALT"
3. STEEL RAILING DARK GREY POWDERCOAT FINISH HEDGE IN FRONT (NOT SHOWN)
4. STEEL CANOPY STRUCTURE, GREEN POWDERCOAT FINISH
5. BLACK "CORROMESH" STEEL FENCE
6. TIMBER FENCE - HEDGE IN FRONT (NOT SHOWN)

Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
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Project number	Size check
121761	20mm
Checked: CS	Approved: CS
Sheet size: A1	Scale: 1 : 100

Sheet title
General Arrangement Sections Section 2

Sheet number: A-DA3211
Revision: 2
Status: FOR DEVELOPMENT APPLICATION

Date generated 17/05/2023 5:52:25 PM Autodesk Docs://121761 - St Marys Cathedral College/121761_SMCC_52-58 William St.rvt



1 SECTION 3
SCALE 1 : 100

Recent revision history

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1	For Information	Development Application	09/12/22
2	For Information	Response to Submissions	17/05/23

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BOUNDARY

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Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
W—B WOODS BAGOT

Project number	Size check
121761	20mm

Checked	Approved	Sheet size	Scale
CS	CS	A1	1 : 100

Sheet title
General Arrangement Sections Section 3

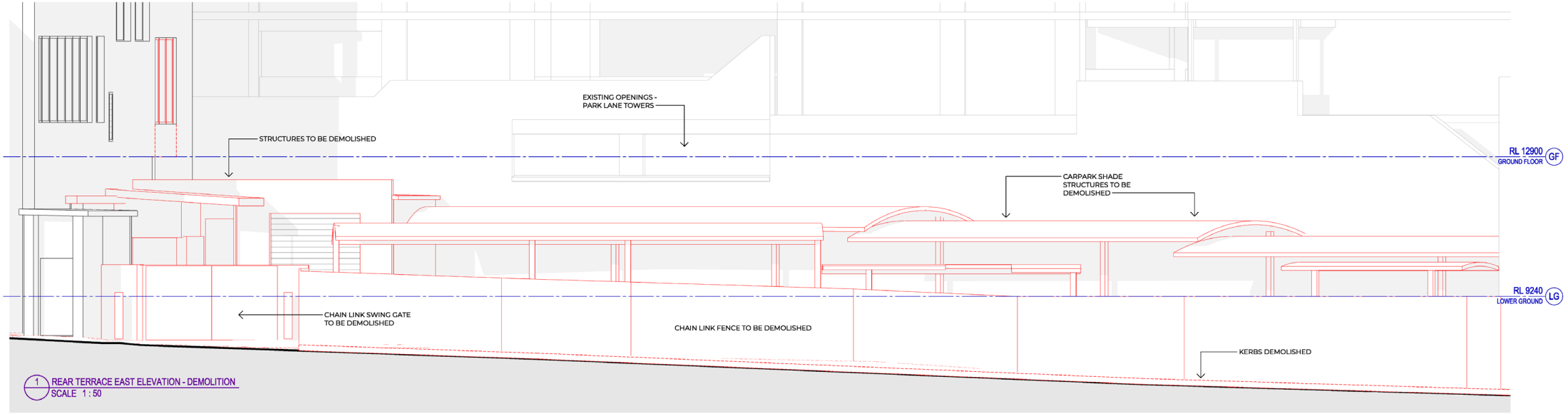
Sheet number	Revision
A-DA3212	2

Status
FOR DEVELOPMENT APPLICATION

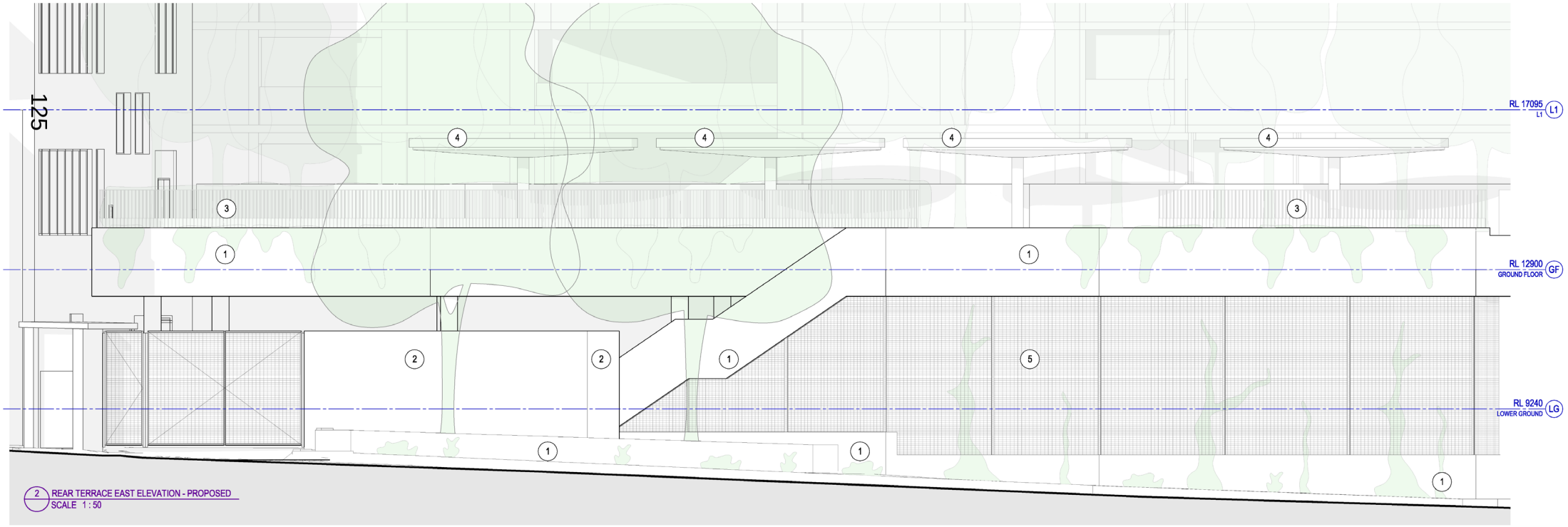
Date generated 17/05/2023 5:52:38 PM Autodesk Docs://121761 - St Marys Cathedral College/121761_SMCC_52-58 William St.rvt

Attachment B3

Selected Drawings



1 REAR TERRACE EAST ELEVATION - DEMOLITION
SCALE 1 : 50



2 REAR TERRACE EAST ELEVATION - PROPOSED
SCALE 1 : 50

Recent revision history

#	Status	Description	Date
1	For Information	Response to Submissions	17/05/23

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MATERIAL & FINISHES

1. CONCRETE (CLASS 2 FINISH)
2. STANDING SEAM METAL CLADDING COLORBOND "BASALT"
3. STEEL RAILING DARK GREY POWDERCOAT FINISH HEDGE IN FRONT (NOT SHOWN)
4. STEEL CANOPY STRUCTURE, GREEN POWDERCOAT FINISH
5. BLACK "CORROMESH" STEEL FENCE
6. TIMBER FENCE - HEDGE IN FRONT (NOT SHOWN)

Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
W–B WOODS BAGOT

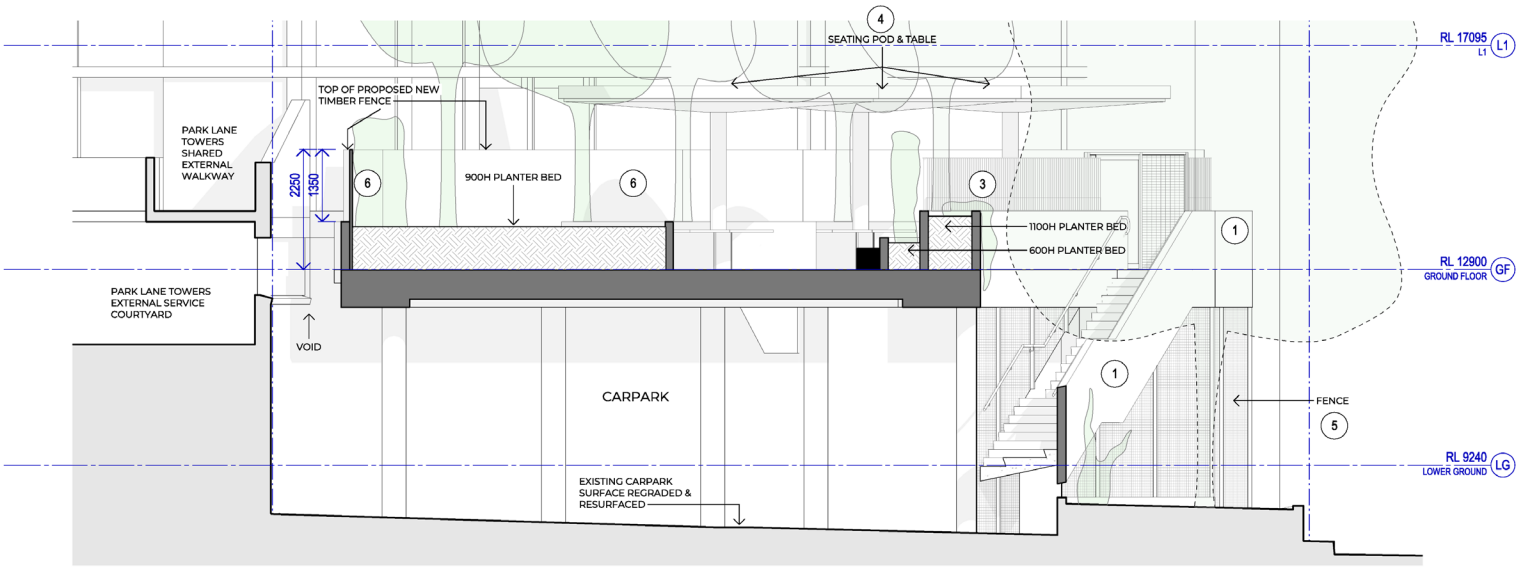
Project number	Size check
121761	20mm

Checked	Approved	Sheet size	Scale
CS	CS	A1	As indicated

Sheet title
Detailed Arrangement
Rear Terrace East Elevation

Sheet number	Revision
A-DA4201	1

Status
FOR DEVELOPMENT APPLICATION



1 TERRACE SECTION 1
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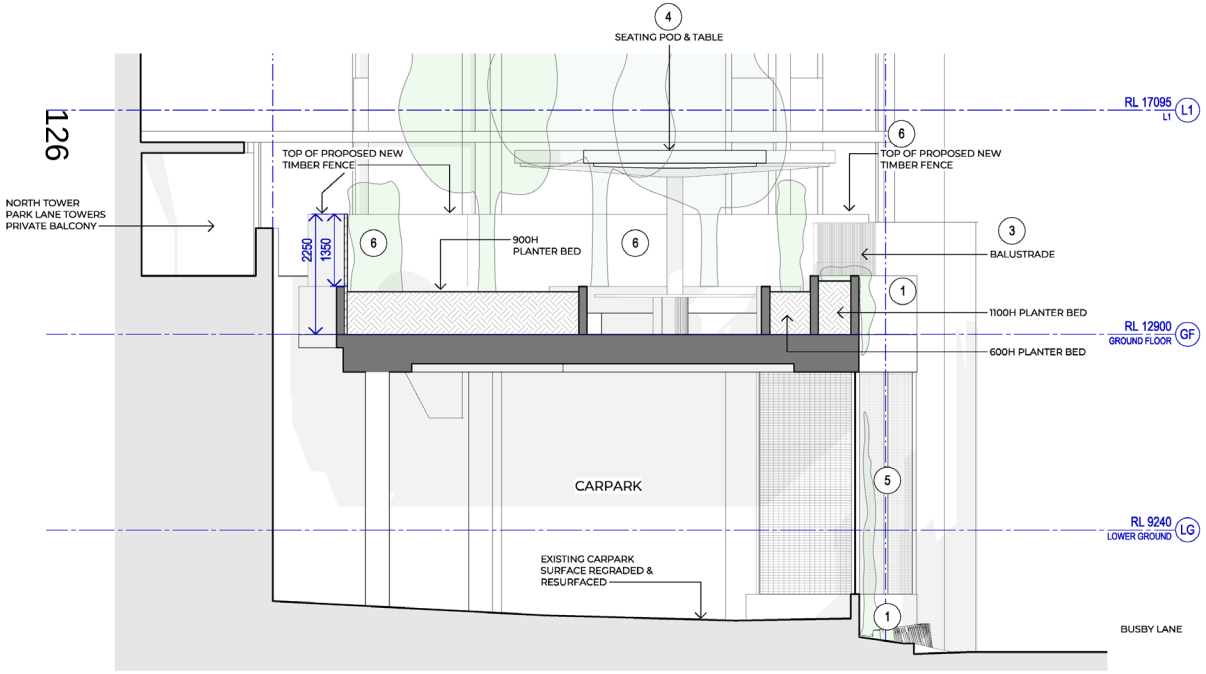

2 TERRACE SECTION 2
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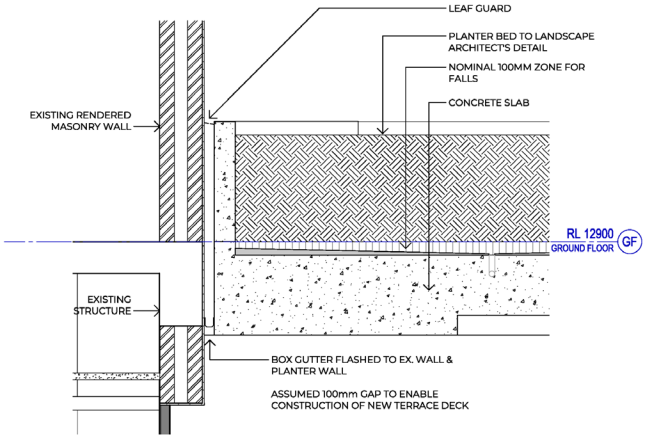

3 TERRACE JUNCTION DETAIL
SCALE 1 : 20

Recent revision history

#	Status	Description	Date
1	For Information	Response to Submissions	17/05/23
2	For Information	Response to Submissions	29/09/23

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MATERIAL & FINISHES

1. CONCRETE (CLASS 2 FINISH)
2. STANDING SEAM METAL CLADDING COLORBOND "BASALT"
3. STEEL RAILING DARK GREY POWDERCOAT FINISH HEDGE IN FRONT (NOT SHOWN)
4. STEEL CANOPY STRUCTURE, GREEN POWDERCOAT FINISH
5. BLACK "CORROMESH" STEEL FENCE
6. TIMBER FENCE - HEDGE IN FRONT (NOT SHOWN)

Project
St Mary's Cathedral College Expansion

Client
Sydney Catholic Schools

Issuer
W—B
WOODS BAGOT

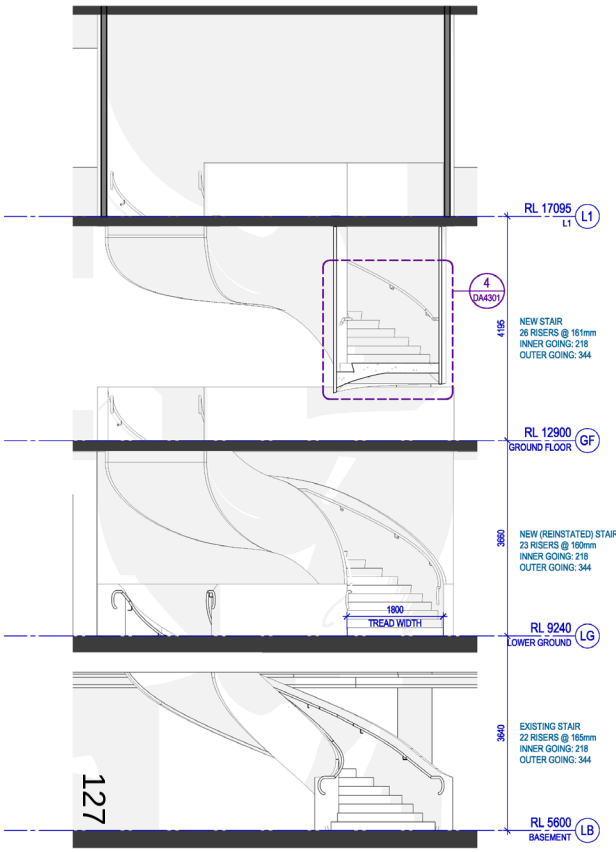
Project number	Size check
121761	25mm

Checked	Approved	Sheet size	Scale
CS	CS	A1	As indicated

Sheet title
Detailed Arrangement
Rear Terrace Sections

Sheet number	Revision
A-DA4202	2

Status
FOR DEVELOPMENT APPLICATION



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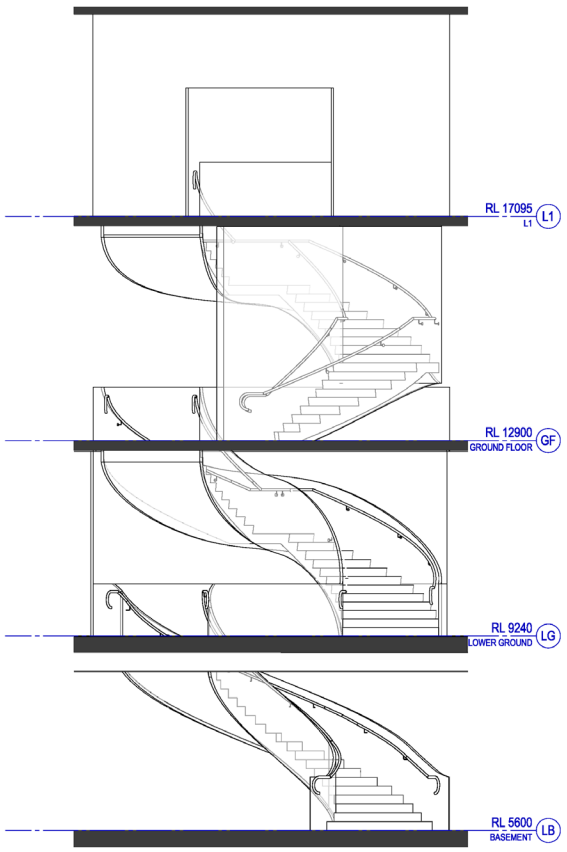
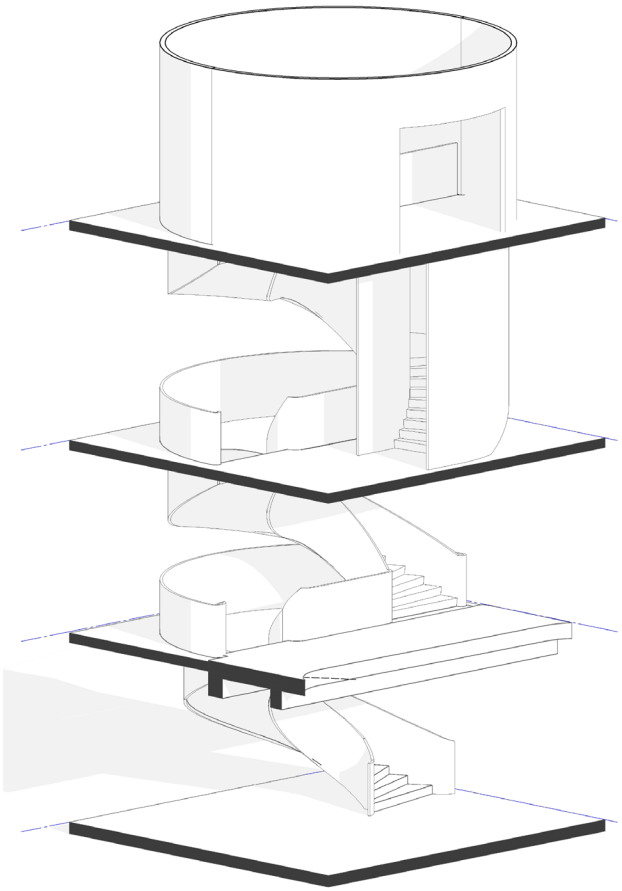


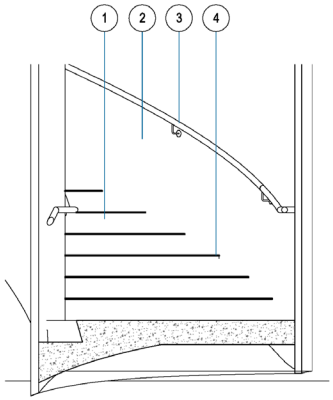
2 PROPOSED STAIR ELEVATION
SCALE 1 : 50



3 STAIR - AXONOMETRIC

MATERIAL & FINISHES

1. CONCRETE STAIR
2. STEEL-CLAD BALUSTRADE
   COLOURED POWDERCOAT FINISH
3. HANDRAIL
4. STAIR NOSING



4 PROPOSED STAIR CALLOUT
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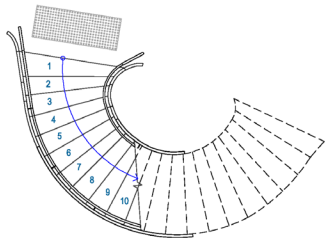
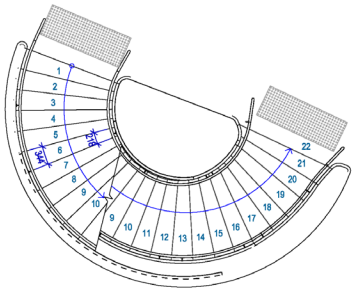
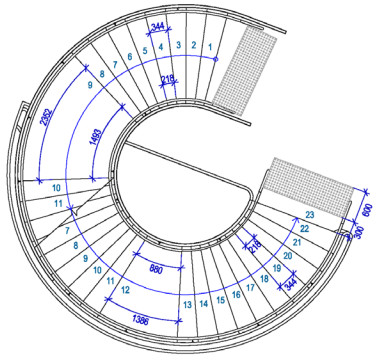


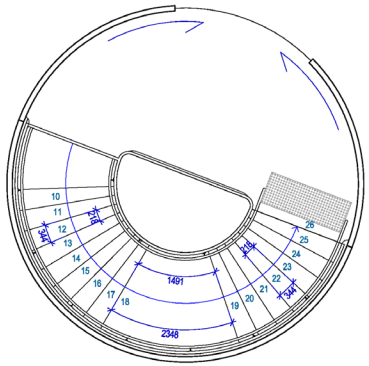
5 EXISTING STAIR PLAN - BASEMENT
SCALE 1 : 50



6 PROPOSED STAIR PLAN - LOWER GROUND
SCALE 1 : 50



7 PROPOSED STAIR PLAN - GROUND
SCALE 1 : 50



8 PROPOSED STAIR PLAN - LEVEL 1
SCALE 1 : 50

Recent revision history

#	Status	Description	Date
1	For Information	Response to Submissions	17/05/23

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Project
St Mary's Cathedral College Expansion

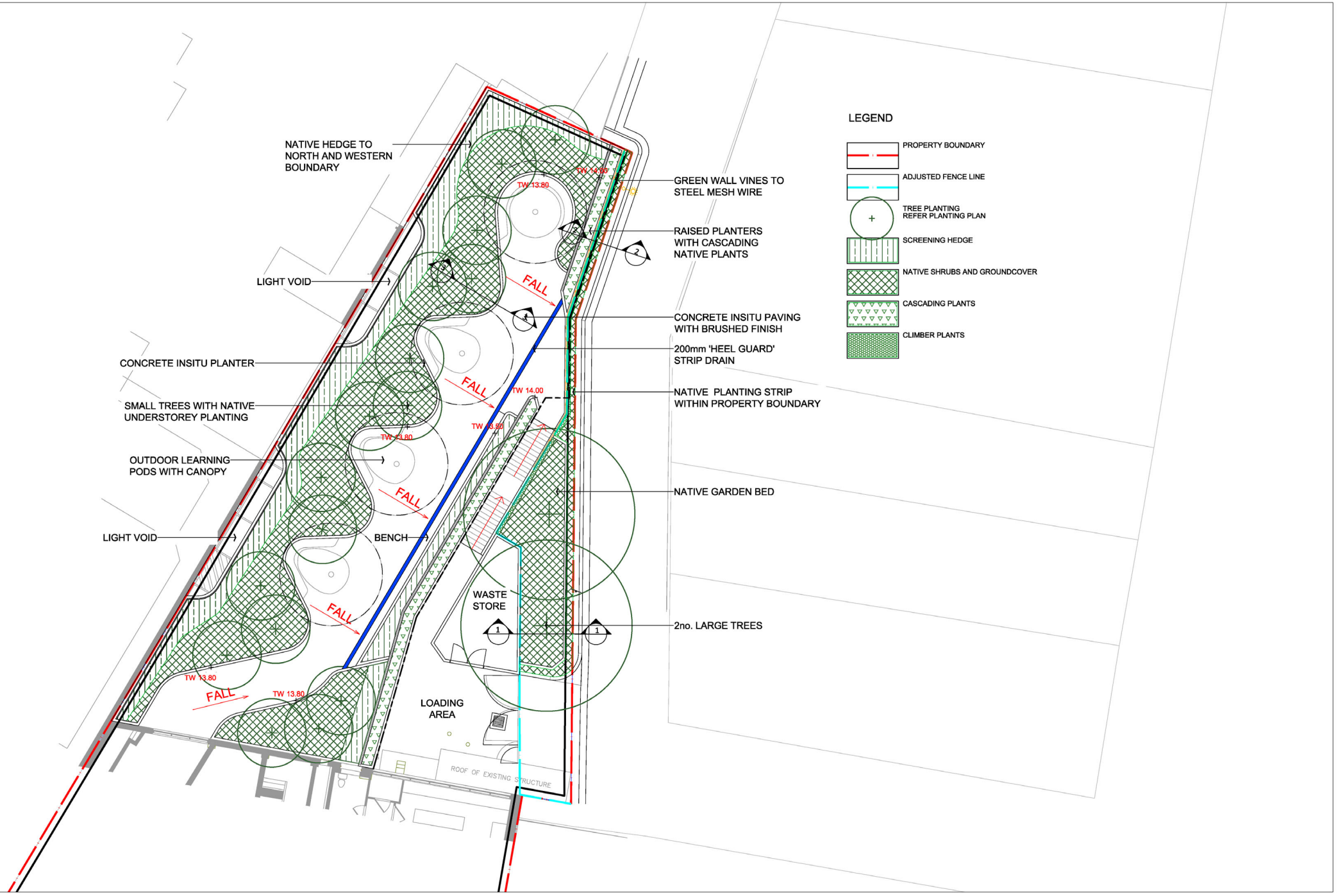
Client
Sydney Catholic Schools

Issuer
W—B
WOODS BAGOT

Project number 121761
Size check 20mm
Checked CS
Approved CS
Sheet size A1
Scale As indicated

Sheet title
General Arrangement Sections Spiral Stair

Sheet number A-DA4301
Revision 1
Status FOR DEVELOPMENT APPLICATION



128

URBIS

52-58 WILLIAM STREET, WOOLLOOMOOLOO

LANDSCAPE PLAN

Angel Place, Level 8, 123 Pitt Street | Sydney NSW 2000 Australia | +61 2 8233 9900 | URBIS Pty Ltd | ABN 50 105 256 228

REV	DESCRIPTION	DWN	CHK	DATE
B	DEVELOPMENT APPLICATION	LB	JN	01.08.23
A	DEVELOPMENT APPLICATION	LB	JN	02.05.23

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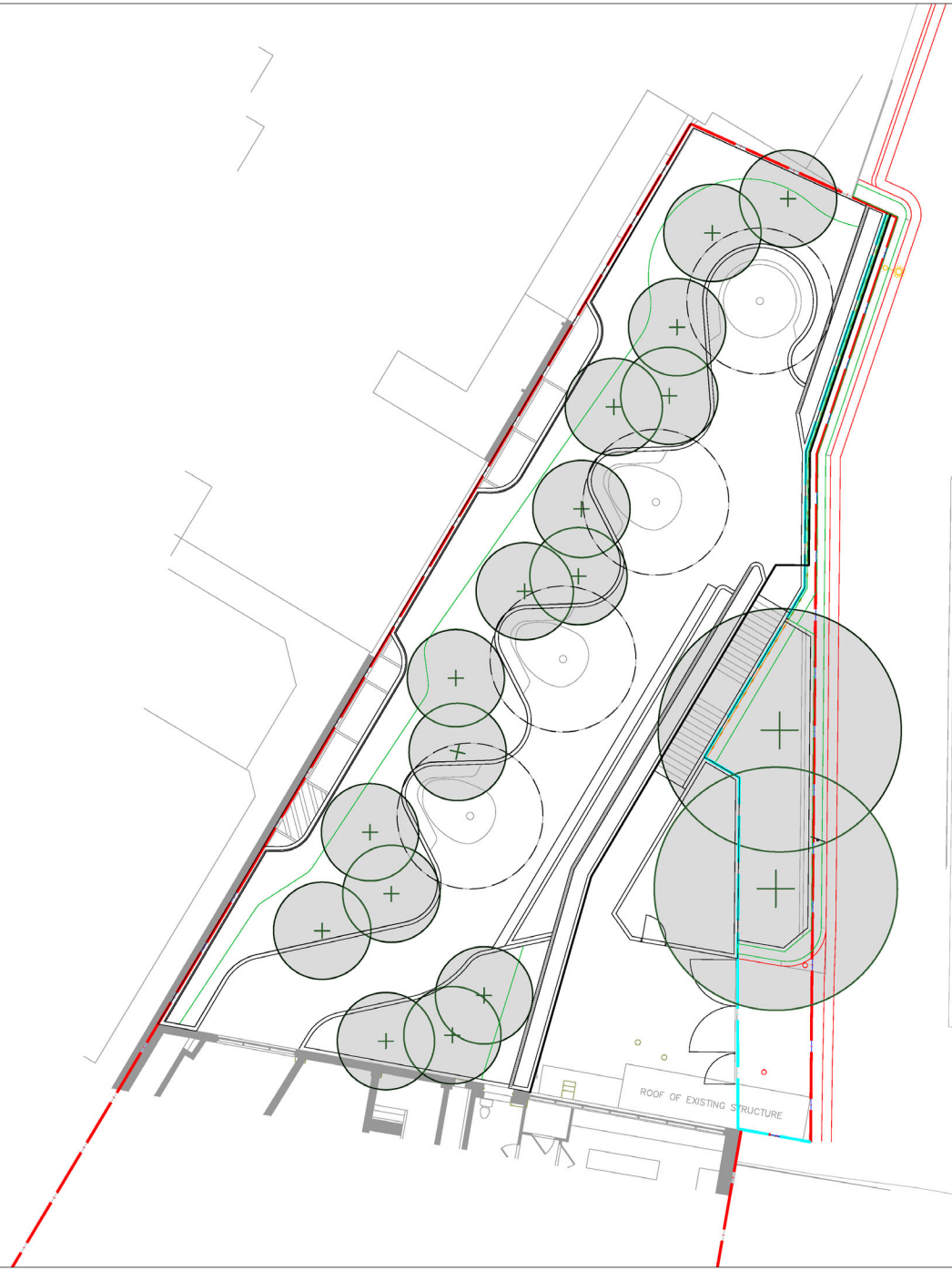
CLIENT
SYDNEY CATHOLIC SCHOOLS

1:100 @ A1 | 1:200 @ A3
1 2 3 4 5m

PROJECT NO. P004835
DATE 01.08.23
DRAWING NO. LA-100
REVISION B



LEGEND:

Site Boundary

Proposed Tree

Canopy Cover

TREE CANOPY COVER : 20% of Site
Site Area = 1496m2
Proposed Canopy Cover = 313m2

(Min. 15% required per CoS requirements)

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52-58 WILLIAM STREET, WOOLLOOMOOLOO

TREE CANOPY COVER

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REV	DESCRIPTION	DWN	CHK	DATE
B	DEVELOPMENT APPLICATION	LB	JN	01.08.23
A	DEVELOPMENT APPLICATION	LB	JN	02.05.23

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CLIENT
SYDNEY CATHOLIC SCHOOLS

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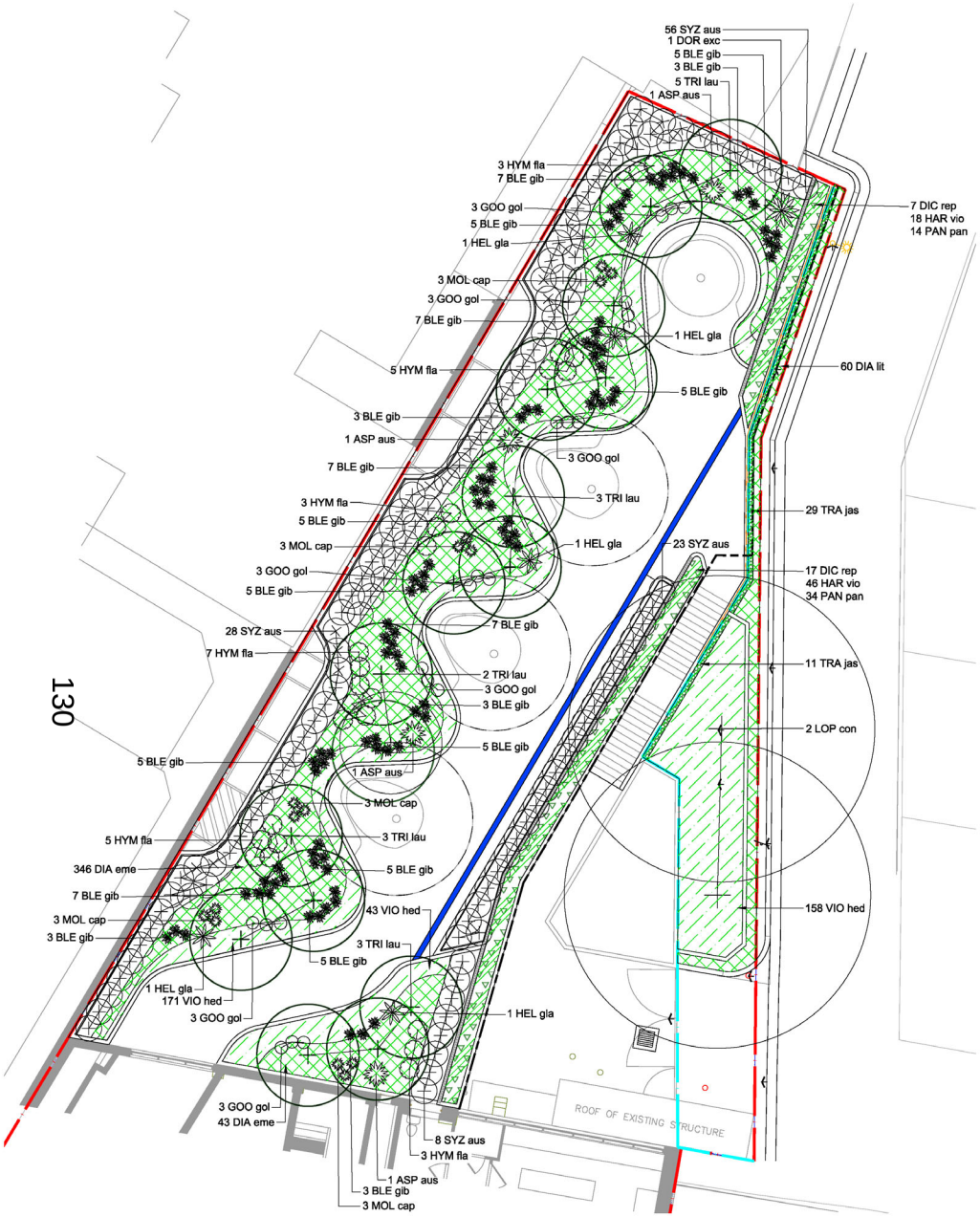
PROJECT NO. P004835
DATE 01.08.23
DRAWING NO. LA-101
REVISION B



130

Trees

PLANT CODE	BOTANIC NAME	COMMON NAME	POT SIZE	SPACING	HEIGHT x SPREAD (m)	Qty.	TYPE
LOP con	Lophostemon confertus	Brush Box	200L	AS SHOWN	18 X 12	2	NATIVE
TRI lau	Tristaniopsis laurina	Water Gum	200L	AS SHOWN	7 x 4	16	NATIVE

Shrubs

PLANT CODE	BOTANIC NAME	COMMON NAME	POT SIZE	SPACING	Qty.	TYPE
HYM fla	Hymenosporum flavum 'Gold Nugget'	Gold Nugget	300mm	AS SHOWN	26	NATIVE
SYZ aus	Syzgium australe 'Resilience'	Lily Pilly	300mm	AS SHOWN	115	NATIVE

Groundcovers & Feature Plants

PLANT CODE	BOTANIC NAME	COMMON NAME	POT SIZE	SPACING	Qty.	TYPE
ASP aus	Asplenium australasicum	Birds Nest Fern	300mm	AS SHOWN	4	NATIVE
BLE gib	Blechnum gibbum	Silver Lady Fern	150mm	AS SHOWN	95	NATIVE
DIA lit	Dianella 'Little Jess'	Dianella 'Little Rev'	150mm	450 mm	60	NATIVE
DIA eme	Dianella Tasmanica 'Emerald Arch'	Blue flax Lily	150mm	600 mm	389	NATIVE
DOR exc	Doryanthes excelsa	Gymea Lily	300mm	AS SHOWN	1	NATIVE
GOO gol	Goodenia ovata 'Gold Cover'	Gold cover	150mm	AS SHOWN	21	NATIVE
HEL gla	Helmholtzia glaberrima	Stream Lily	300mm	AS SHOWN	5	NATIVE
MOL cap	Molineria capitulata	Palm Grass	150mm	AS SHOWN	15	NATIVE
VIO hed	Viola hederacea	Native Violet	140mm	450 mm	372	NATIVE

Cascading Mix

PLANT CODE	BOTANIC NAME	COMMON NAME	POT SIZE	SPACING	Qty.	TYPE
DIC rep	Dichondra repens	Kidney Grass	150mm	400 mm	24	NATIVE
HAR vio	Hardenbergia violacea	Purple Coral Pea	150mm	350 mm	64	NATIVE
PAN pan	Pandorea pandorana	Wonga Wonga Vine	150mm	400 mm	48	NATIVE

Climbers

PLANT CODE	BOTANIC NAME	COMMON NAME	POT SIZE	SPACING	Qty.	TYPE
TRA jas	Trachelospermum jasminoides	Star Jasmine	200mm	350 mm	40	EXOTIC

Native Total = 1257

Exotic Total = 40

Total = 1297

Native Percentage = 97%

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PLANTING PLAN: STAGE 1 GROUND LEVEL

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REV	DESCRIPTION	DWN	CHK	DATE
B	DEVELOPMENT APPLICATION	LB	JN	01.08.23
A	DEVELOPMENT APPLICATION	SO	MK	12.12.22

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CLIENT
SYDNEY CATHOLIC SCHOOLS

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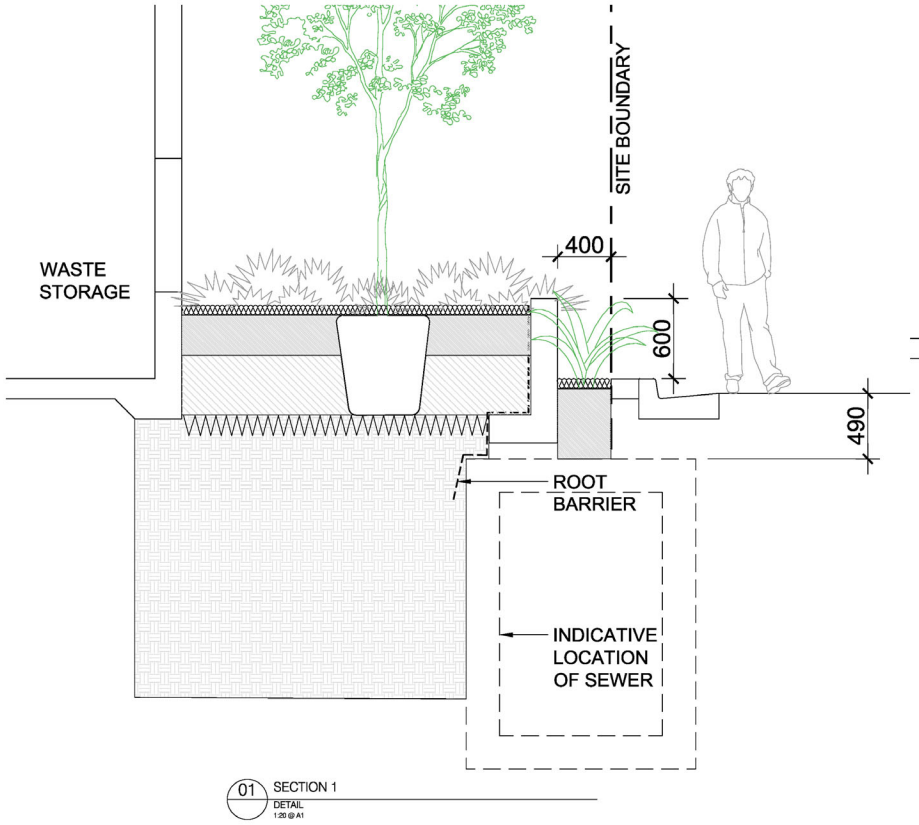
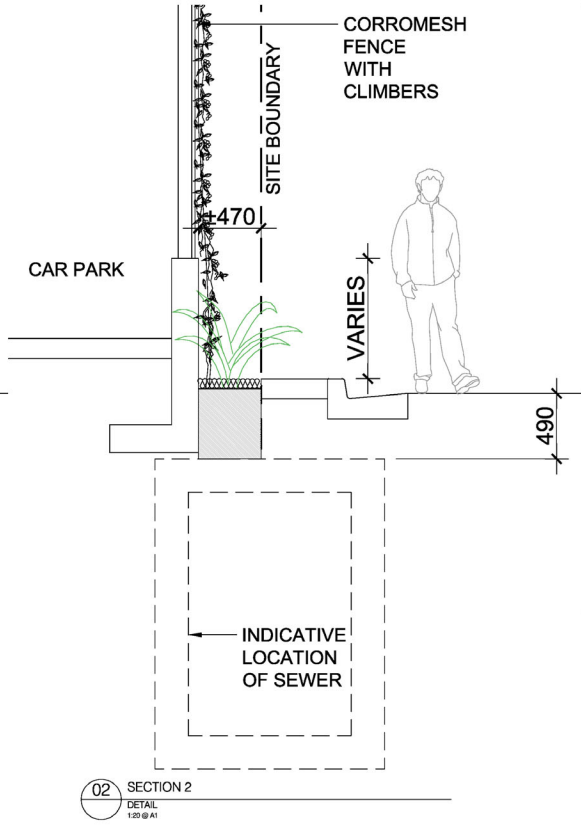
PROJECT NO. P0043835
DATE 01.08.23
DRAWING NO. L501
REVISION B



01 SECTION 1
DETAIL
1:20 @ A1



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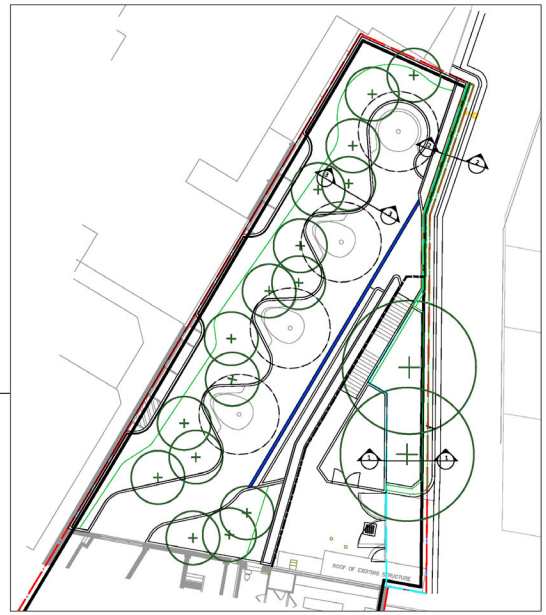

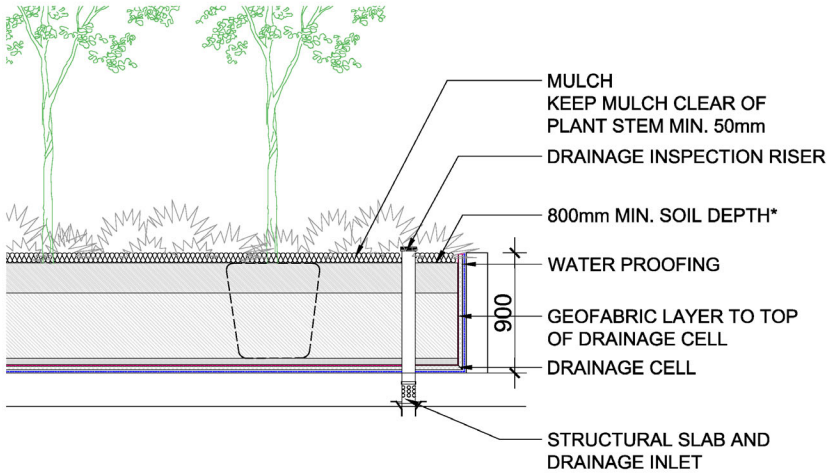

03 SECTION 3
DETAIL
1:20 @ A1

NOTE:
800mm MINIMUM SOIL DEPTH
REQUIREMENTS FOR SMALL TREES
AS PER CITY OF SYDNEY
LANDSCAPE CODE & APARTMENT
DESIGN GUIDELINES

URBIS

52-58 WILLIAM STREET, WOOLLOOMOOLOO
SECTIONS

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CLIENT
SYDNEY CATHOLIC SCHOOLS
.

1:20 @ A1 | 1:40 @ A3
0.2 0.4 0.6 0.8 1.0m

PROJECT NO. P004835
DATE 01.08.23
DRAWING NO. LA-601
REVISION B

Item 4.

Development Application: 82 Wentworth Park Road, Glebe - D/2023/21

File No.: D/2023/21

Summary

Date of Submission:	24 January 2023 Amended plans submitted 11 April, 11 August, 10 November 2023. Clause 4.6 requests submitted 1 December 2023.
Applicant:	New South Wales Land and Housing Corporation
Architect:	SJB
Developer:	New South Wales Land and Housing Corporation
Owner:	New South Wales Land and Housing Corporation
Planning Consultant:	FPD Planning
Heritage Consultant:	NBRS and Partners
DAPRS:	7 March 2023
Cost of Works:	$21,723,996
Zoning:	The proposal is permissible within the R1 General Residential zone.
Proposal Summary:	The development application seeks consent for demolition of existing buildings, tree removal, and construction of a four storey residential flat building for 43 affordable housing dwellings for use as social housing. The development is a Crown development application with the land owner being the NSW Land and Housing Corporation. The application was presented to the City's Design Advisory Panel Residential Subcommittee (DAPRS) who supported the increase in social housing as well as the proposed height and the materiality. A number of

recommendations have been addressed via amended plans.

The proposed development is compliant with the permitted FSR control of 2.25:1 under the Sydney LEP 2012 of 1.75:1 and the Housing SEPP 2021 of an additional 0.5:1.

The proposal exceeds the 12m height of building development standard by 2.2m (18%). The applicant has submitted a clause 4.6 written request seeking to vary the development standard, and the clause 4.6 Request is supported.

The applicant has submitted three clause 4.6 written requests seeking to vary development standards of the State Environmental Planning Policy (Housing) 2021 relating to landscaped area, solar access and parking spaces. These clause 4.6 requests are supported.

The proposal is generally compliant with SEPP 65 and the Apartment Design Guide (ADG). Overall, the proposal provides acceptable amenity for the future residents and acceptable amenity impacts on neighbouring developments.

The proposal responds satisfactorily to surrounding developments and its context and achieves a standard of architectural design that demonstrates design excellence.

The development application was publicly notified on two occasions. The first notification related to the original proposal and was notified for 28 days between 14 February and 15 March 2023. 27 unique submissions were received, and 349 pro-forma submissions were received.

The second notification related to the amended proposal and was notified for 14 days between 21 August and 5 September 2023. Two submissions were received.

The development application is referred to the Local Planning Panel for determination as:

(a) the proposal is a type of development where State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development applies;

(b) the application proposes a departure from a development standard greater than 10 per cent; and

(c) greater than 25 submissions have been received.

As the application is a Crown development application, the draft conditions were provided to Land and Housing

Corporation, who have agreed to the recommended conditions on 28 November 2023.

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

Development Controls:

(i) Sydney Local Environmental Plan 2012

(ii) Sydney Development Control Plan 2012

(iii) SEPP (Resilience and Hazards) 2021

(iv) SEPP 65

(v) Apartment Design Guide

(vi) SEPP (Transport and Infrastructure) 2021

(vii) SEPP (Biodiversity and Conservation) 2021

Attachments:

A. Recommended Conditions of Consent

B. Selected Drawings

C. Clause 4.6 Variation Request - Height of Buildings

D. Clause 4.6 Variation Request - Landscaped Area

E. Clause 4.6 Variation Request - Solar Access

F. Clause 4.6 Variation Request - Parking Spaces

G. View Impact Assessment

Recommendation

It is resolved that:

(A) the variation requested to Height of Buildings development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;

(B) the variation requested to Landscaped Area development standard under subsection 18(2)(b) of State Environmental Planning Policy (Housing) 2021 accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;

(C) the variation requested to Solar Access development standard under subsection 18(2)(e) of State Environmental Planning Policy (Housing) 2021 in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld;

(D) the variation requested to Parking Spaces development standard under subsection 18(2) (f) of State Environmental Planning Policy (Housing) 2021 in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and

(E) pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, a deferred commencement consent be granted to Development Application Number D/2023/21 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 R1 General Residential zone pursuant to the Sydney LEP 2012.

(B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:

  (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Height of Buildings development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 4.3 of the Sydney LEP 2012; and

  (ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the Height of Buildings development standard.

(C) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:

  (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Landscaped Area development standard is unreasonable or unnecessary

and that there are sufficient planning grounds to justify contravening clause 18(2)(b) of State Environmental Planning Policy (Housing) 2021; and

(ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the Landscaped Area development standard.

(D) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Solar Access development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 18(2)(e) of State Environmental Planning Policy (Housing) 2021; and

(ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the Solar Access development standard.

(E) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the Parking Spaces development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening clause 18(2)(f) of State Environmental Planning Policy (Housing) 2021; and

(ii) the proposal is in the public interest because it is consistent with the objectives of the R1 General Residential zone and the Parking Spaces development standard.

(F) The development exhibits design excellence under Clause 6.21C of Sydney LEP 2012.

(G) The development meets the objectives of the Apartment Design Guide and is consistent with the design quality principles under State Environmental Planning Policy No 65 - Design Quality of Residential Apartments.

(H) The development generally meets the objectives and provisions of the Housing SEPP 2021.

(I) The development is generally consistent with the objectives of Sydney LEP 2012 and Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. The site has a legal description of Lots 1-4 DP 82924, known as 82 Wentworth Park Road, Glebe. It is irregular in shape with an area of approximately 1,633sqm. It has a primary street frontage of approximately 48m to Wentworth Park Road and has a partial side frontage to Cardigan Street and a rear street frontage to Bellevue Street. The site is located approximately 52m from the intersection of Wentworth Park Road and Bridge Road.

2. The site contains 17 semi-detached townhouses of two and three storeys. The site has a central driveway and a hardstand parking area at the rear.

3. The site is relatively flat however Bellevue Street is elevated above the site by approximately 3.5m to 10m. There is a sandstone retaining wall for the full length of the rear boundary.

4. There are 11 trees on the site and 13 trees located adjacent to the site on Council land or neighbouring land.

5. The surrounding area is characterised by a mixture of land uses, primarily being residential and commercial.

6. On the opposite side of Wentworth Park Road is Wentworth Park and associated sports fields.

7. On the opposite side of Bellevue Street are residential terraces and Thomas Portley Reserve.

8. To the north-west is the light rail, which is elevated above ground level, and a mixed-use building on the corner of Wentworth Park Road and Bridge Road.

9. To the south-east are residential terraces on the opposite side of Cardigan Street, and a mixed-use development adjoining the site at 1A Cardigan Street.

10. The site is located within the Lyndhurst heritage conservation area (C31). The site is identified as a neutral building.

11. The site is located within the St Phillips locality and is identified as being subject to flooding.

12. A site visit was carried out on 22 February and 17 July 2023. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Wentworth Park Road and Cardigan Street



Figure 3: Site viewed from Wentworth Park Road



Figure 4: Site viewed from Wentworth Park Road



Figure 5: The rear of the site viewed from the existing hardstand area



Figure 6: The rear of the site looking north



Figure 7: The rear of the site looking south



Figure 8: Site viewed Cardigan Street



Figure 9: Looking south-west along Cardigan Street



Figure 10: Parking area of neighbouring mixed use development at 1A Cardigan Street



Figure 11: Residential dwellings on the opposite side of Cardigan Street



Figure 12: Light rail to the north of the site



Figure 14: Site viewed from Bellevue Street



Figure 14: Site viewed Bellevue Street



Figure 15: Residential terraces located on the opposite side of Bellevue Street

History Relevant to the Development Application

Development Applications

13. The existing building was constructed in 1986 for the NSW Housing Commission.

14. There is no recent development application history relating to the site.

Amendments

15. Following preliminary and detailed assessments of the proposed development by Council Officers, requests for additional information and amendments were sent to the applicant on 17 February, 21 June, and 16 October 2023.

16. The applicant responded to the requests on 11 April, 11 August, 10 November and 1 December 2023.

17. Additional information provided by the applicant included:

    (a) amended plans;

    (b) additional information relating to tree removal and options considered to retain trees on site;

    (c) information relating to the retaining wall at the rear;

(d) public art plans;

(e) Remedial Action Plan;

(f) Letter of Interim advice from a site auditor;

(g) Revised Flood Report;

(h) stormwater information;

(i) View Loss Impact Assessment;

(j) amended Clause 4.6 request for Height development standard; and

(k) Clause 4.6 requests for exceptions to the Landscaped Area, Solar Access and Parking Spaces development standards.

18. The amendments to the plans included:

(a) provision of clerestory skylights to improve solar access and cross ventilation to upper level apartments;

(b) provision of a 2 metre setback from the rear boundary;

(c) additional privacy measures;

(d) amend ramp to waste room; and

(e) **l**ayout changes of three ground floor apartments to better address the street

Proposed Development

19. The development application, as amended, seeks consent for demolition of existing buildings, tree removal, and construction of a four storey residential flat building for 43 affordable housing dwellings for use as social housing.

20. The land owner is NSW Land and Housing Corporation and all dwellings are proposed to be delivered as social housing.

21. In detail, the application seeks consent for the following:

(a) Basement level

(i) Switch room

(ii) Cold Water pump

(iii) Comms room

(iv) Pump room

(b) Ground floor level

(i) Building lobby

(ii) 10 apartments (6 one-bedroom and 4 studios)

(iii) Two communal open space areas

(iv) Waste room

(v) Bike storage room

(vi) Substation

(c) Level 1

(i) 11 apartments (4 two-bedroom and 7 one-bedroom)

(d) Levels 2 and 3

(i) 11 apartments per level (3 two-bedroom and 7 one-bedroom)

(e) Roof level

(i) Green roof

(f) Tree removal of 11 trees from the site and planting of new trees

22. Plans and elevations of the proposed development are provided below.

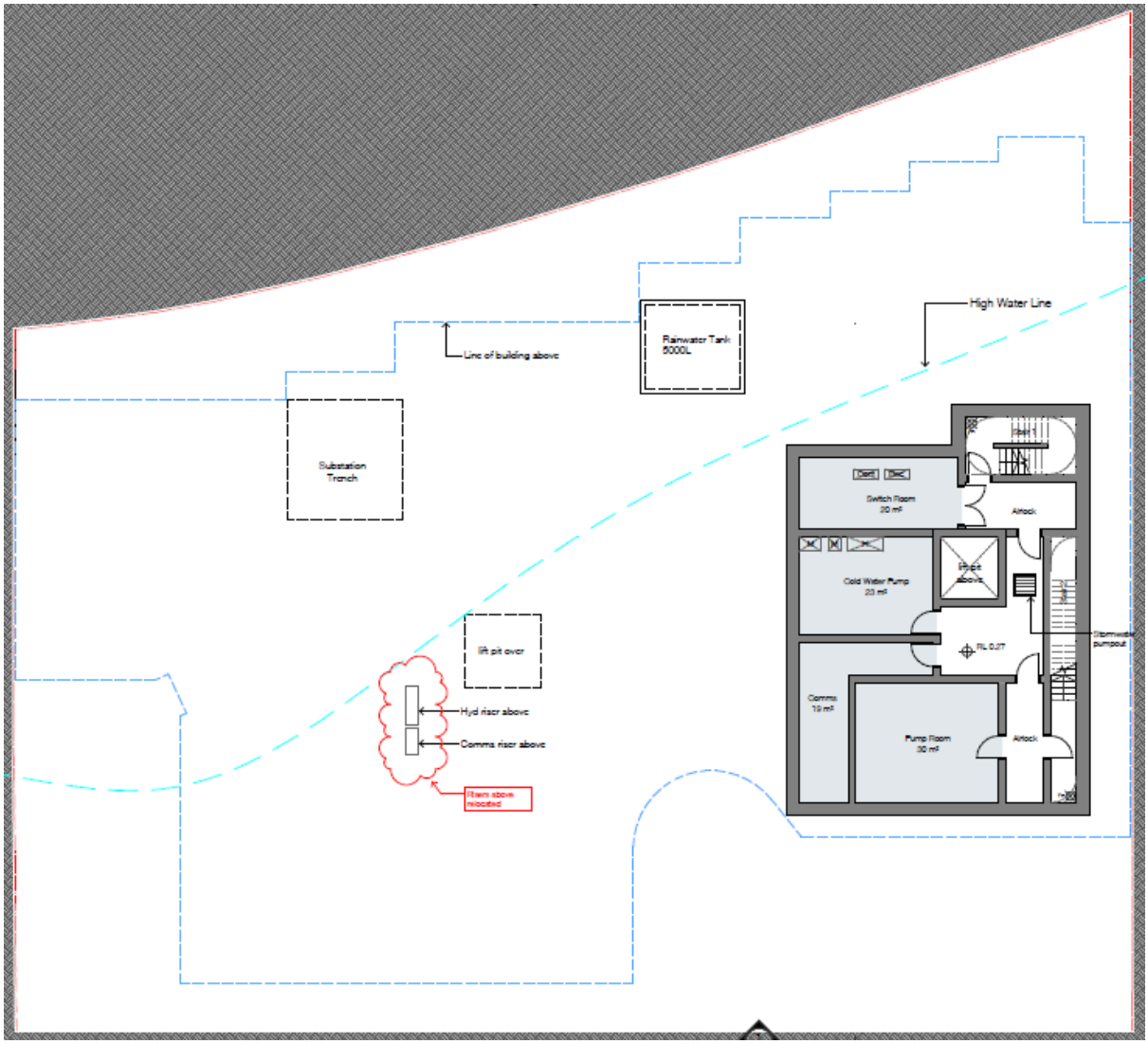

Figure 16: Proposed basement floorplan

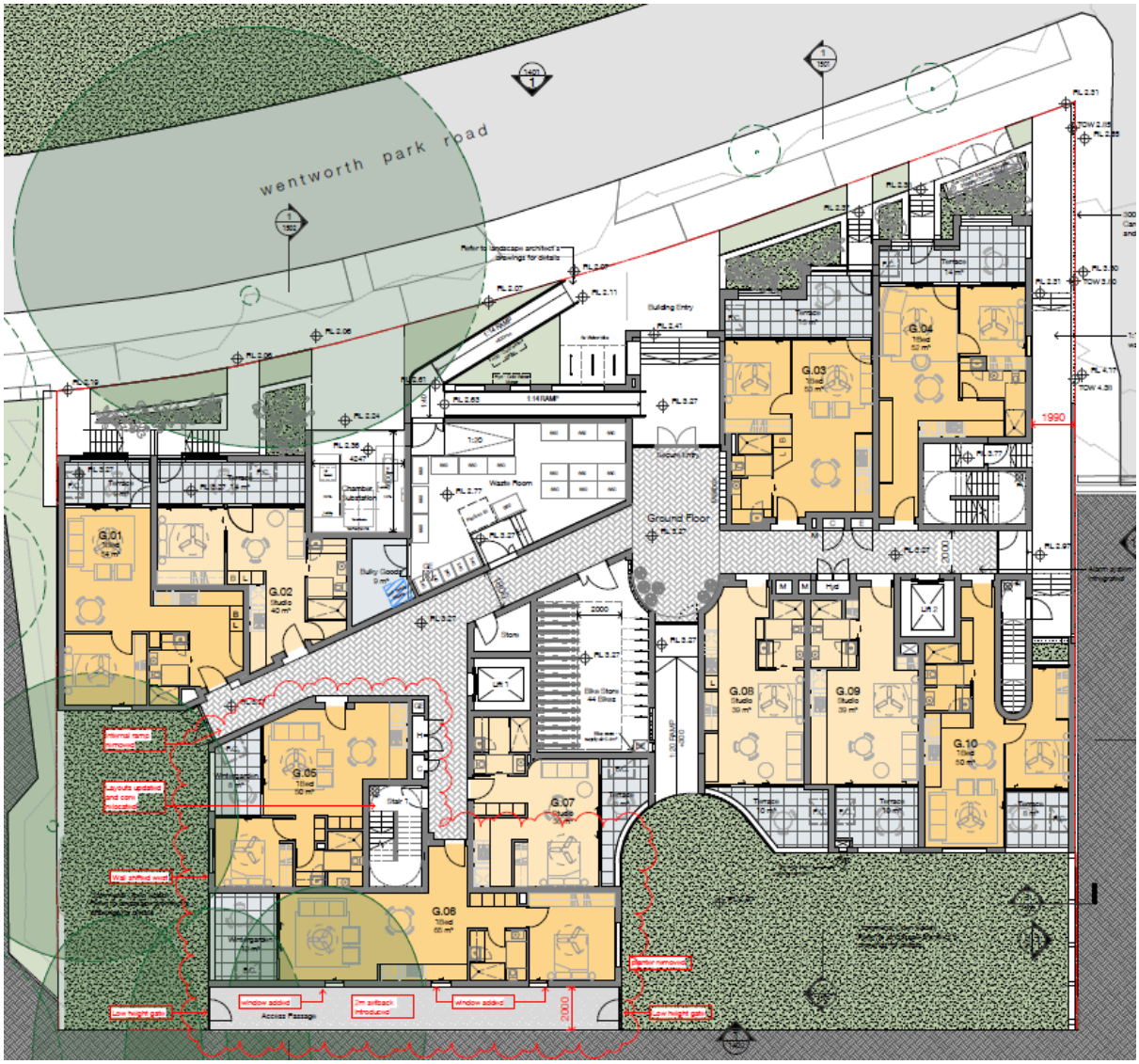

Figure 17: Proposed ground floor plan

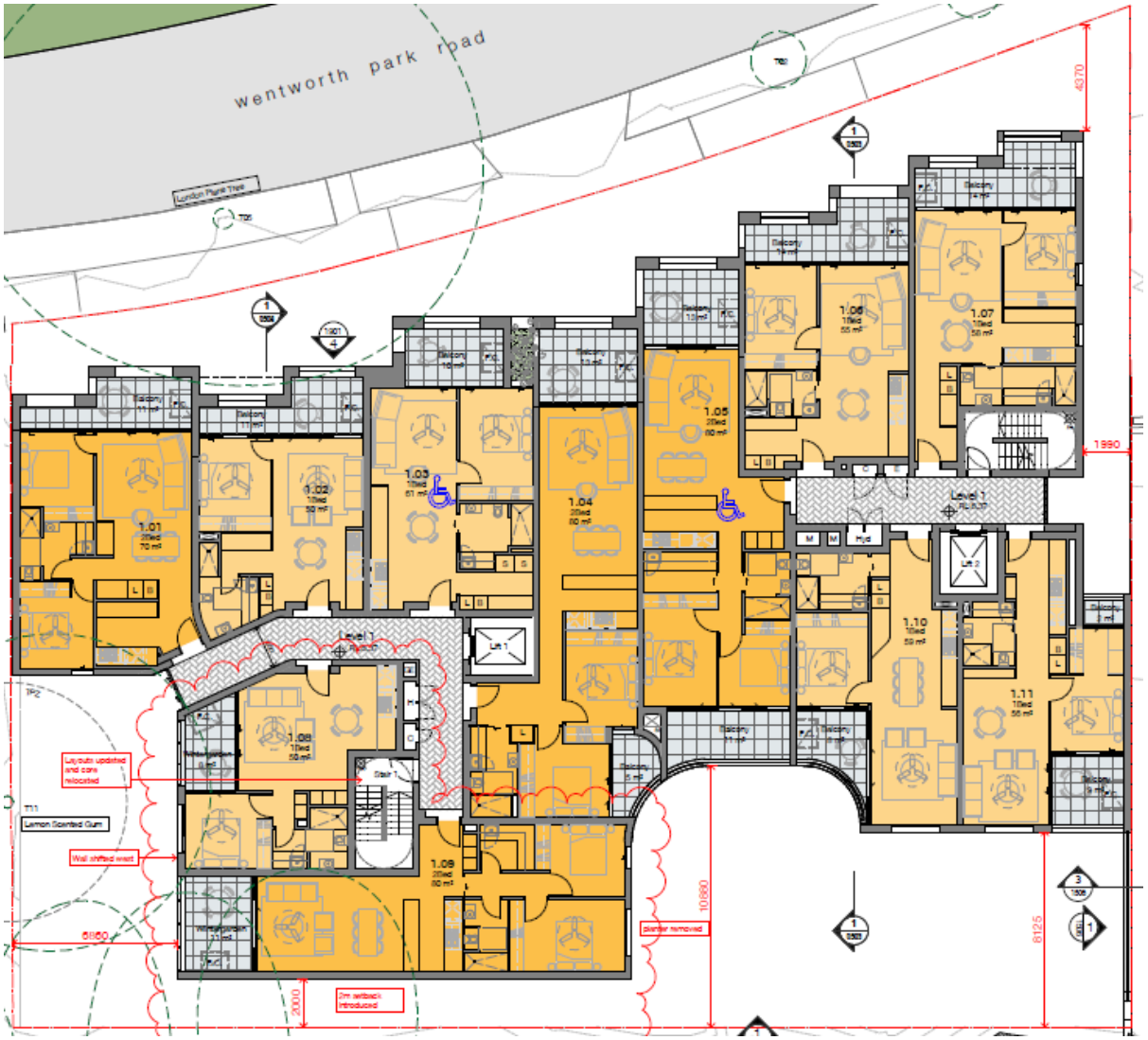

Figure 18: Proposed first floor plan

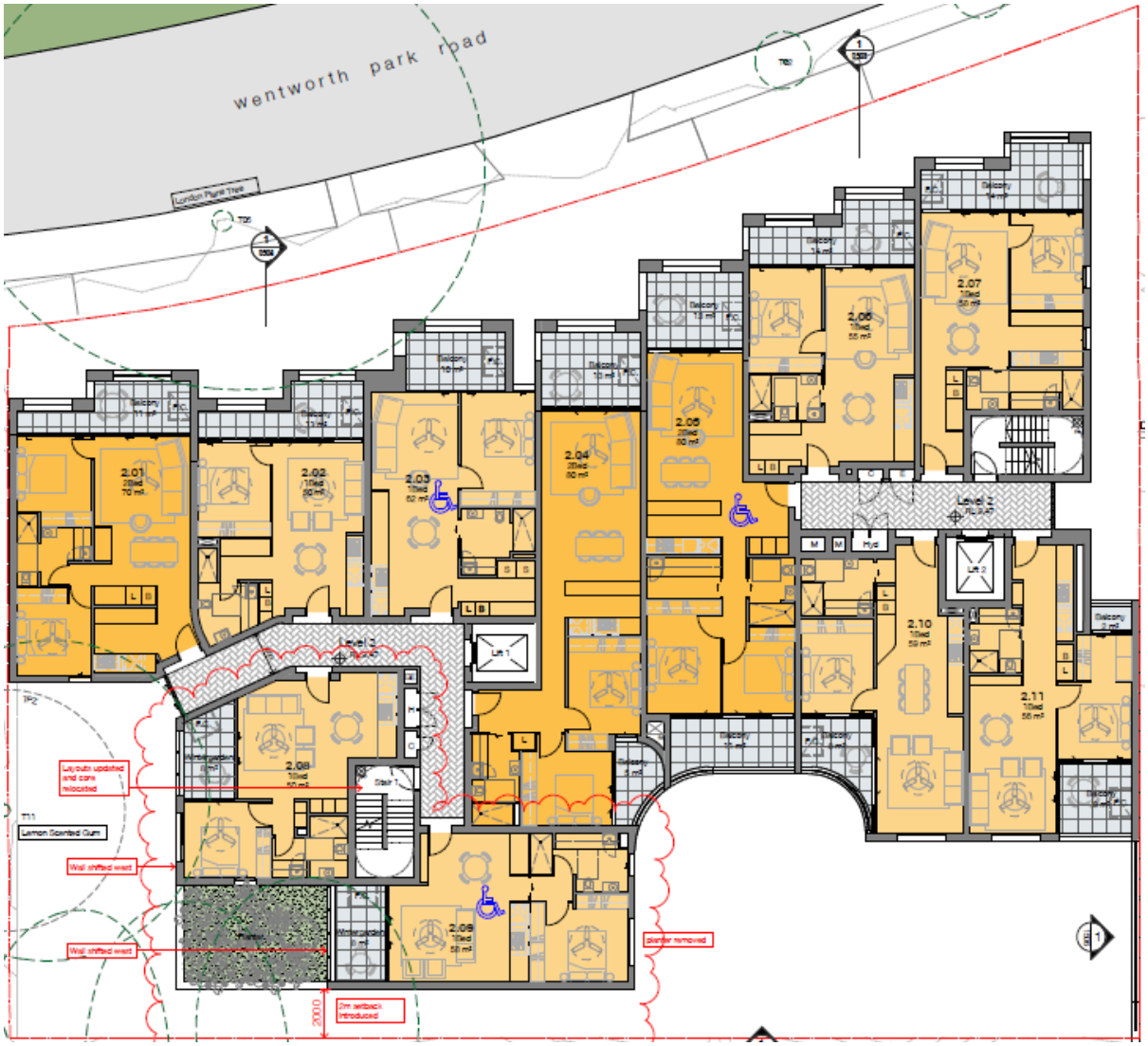

Figure 19: Proposed second floor plan

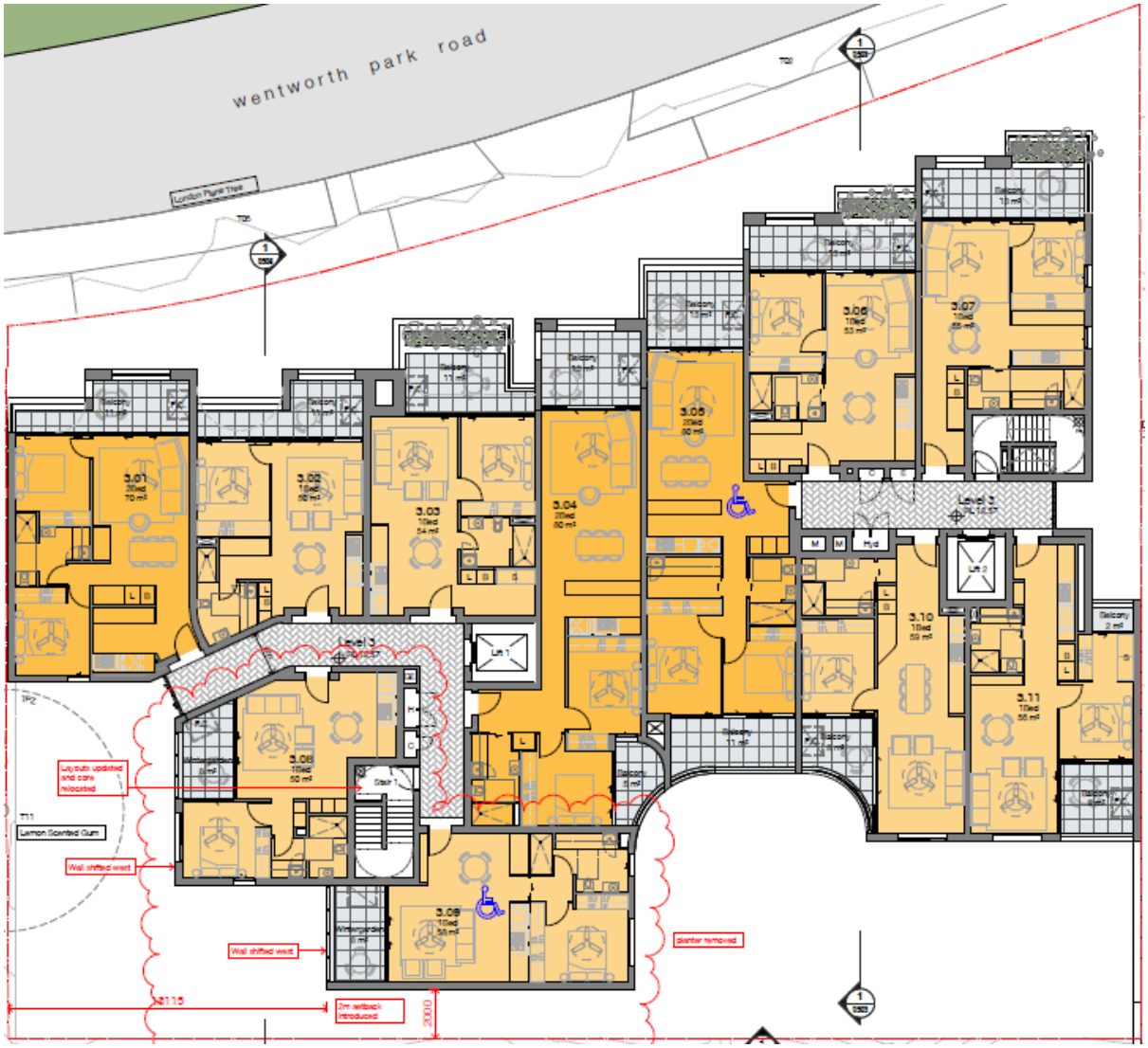

Figure 20: Proposed third floor plan

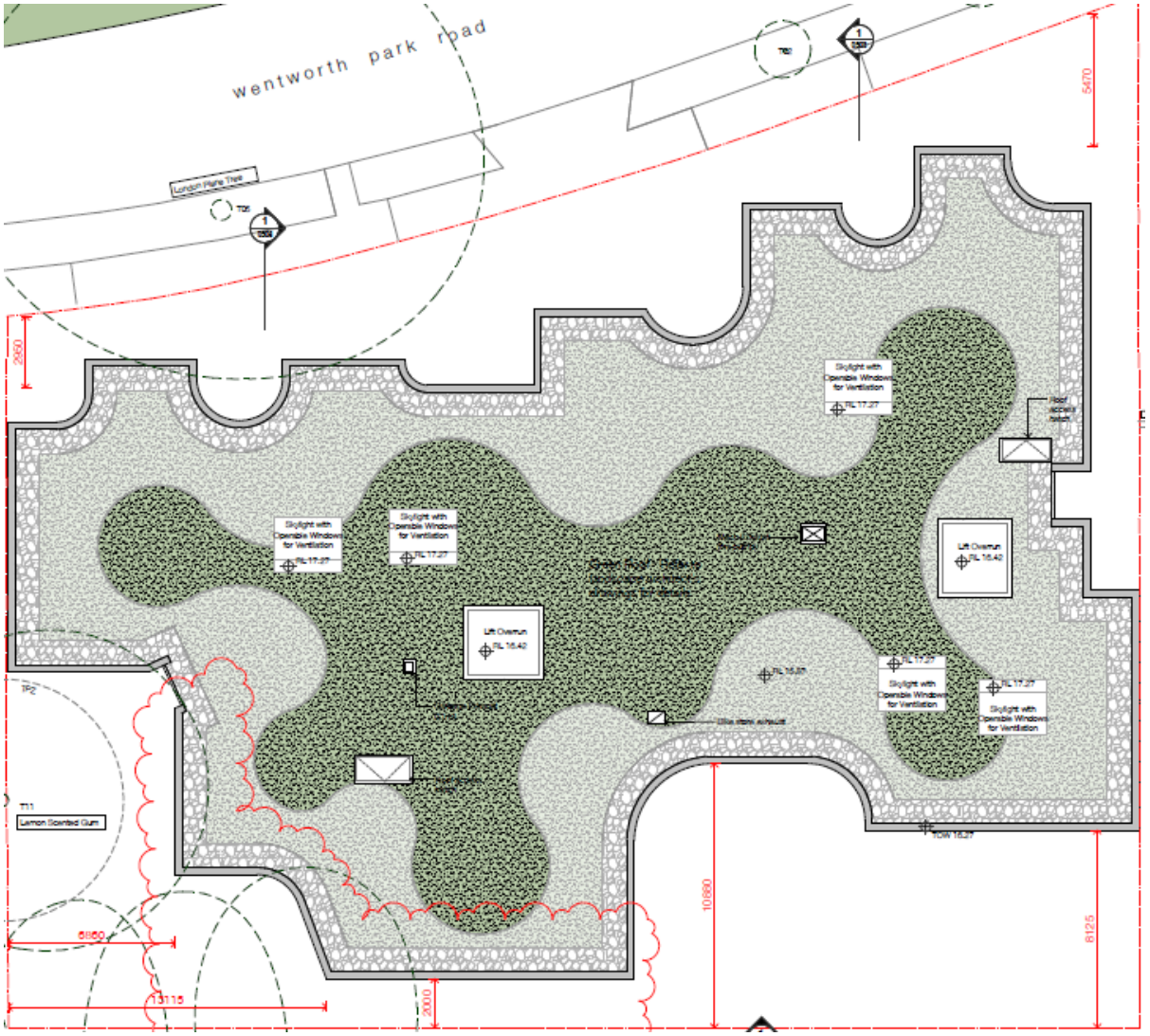

Figure 21: Proposed roof plan



Figure 22: Wentworth Park Road (East) elevation

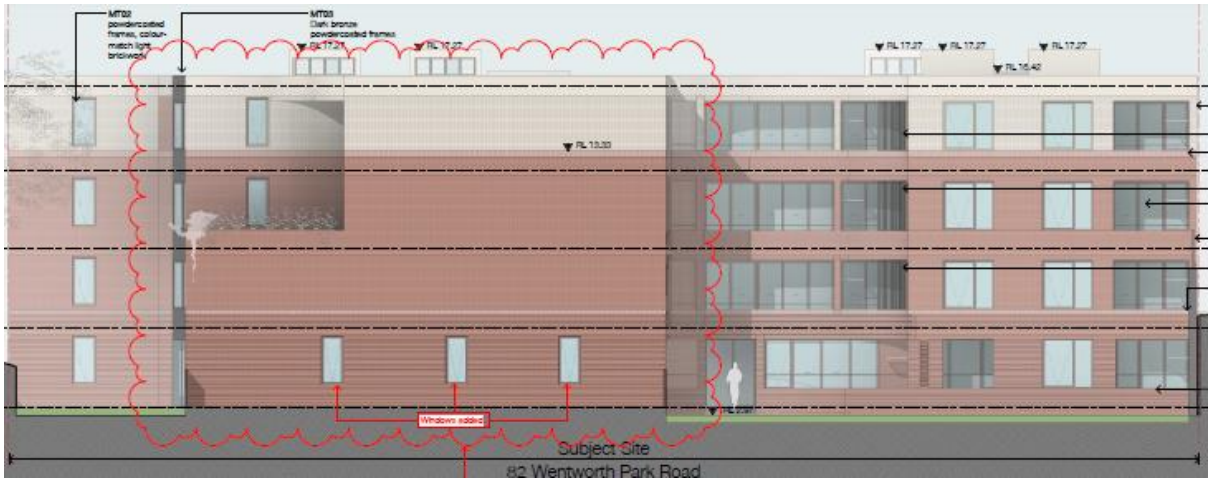

Figure 23: West elevation

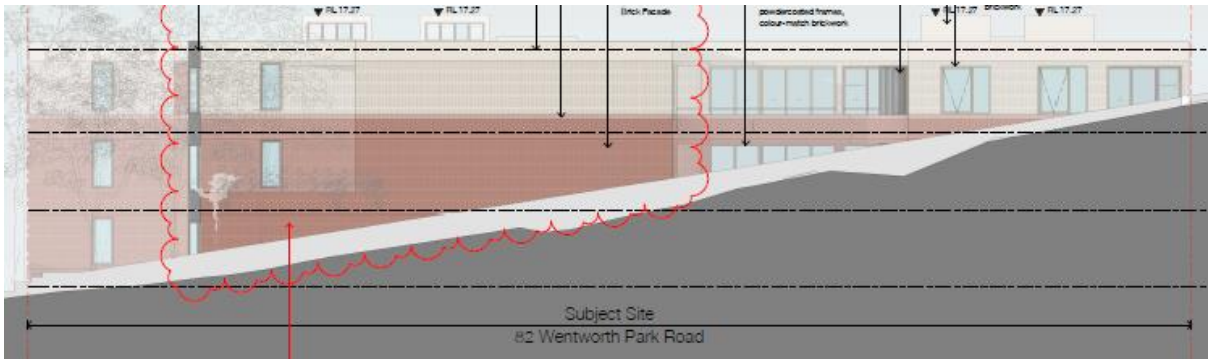

Figure 24: Bellevue Street (West) elevation



Figure 25: Cardigan Street (South) elevation

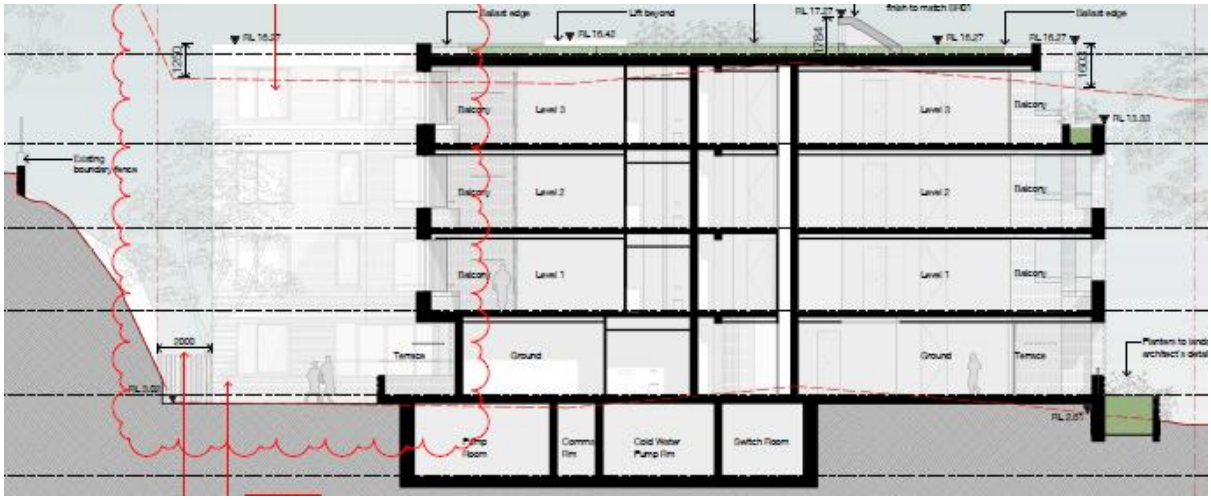

Figure 26: Section viewed from the south



Figure 27: Section viewed from the north

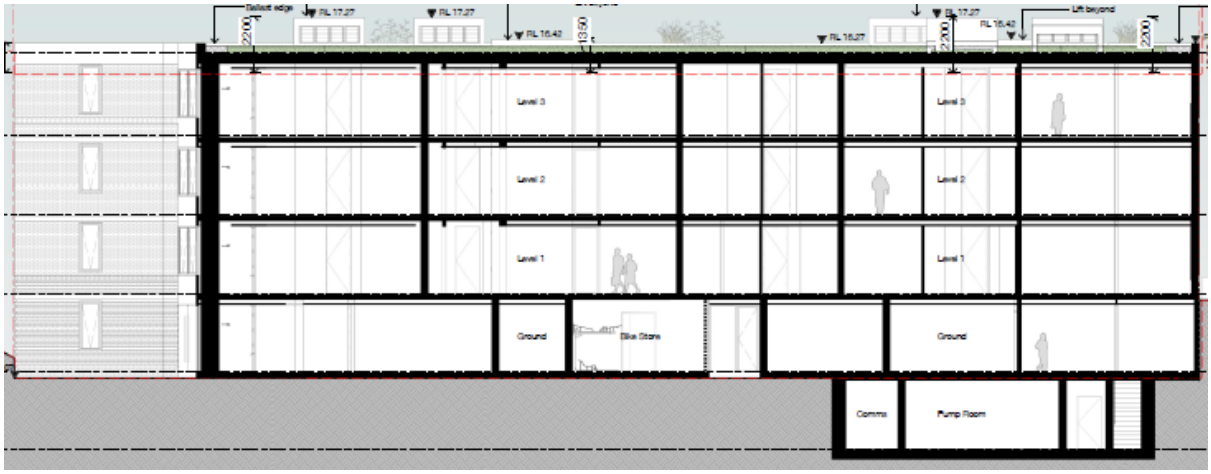

Figure 28: Section viewed from the west



Figure 29: Photomontage viewed from the corner of Wentworth Park Road and Cardigan Street



Figure 30: Photomontage viewed from the northern end of Bellevue Street

Assessment

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

Crown Development Applications

24. This application has been made by or on behalf of NSW Land and Housing Corporation (LAHC) and is therefore to be assessed as a Crown development application.

25. Pursuant to section 4.33(1) of the EP&A Act, a consent authority (other than the Minister) must not:

    (a) refuse its consent to a Crown development application, except with the approval of the NSW Minister for Planning and Public Spaces; or

    (b) impose a condition on its consent to a Crown development application, except with the approval of the applicant, or the NSW Minister for Planning and Public Spaces.

26. Draft conditions of consent were provided to the applicant on 20 November 2023.

27. LAHC provided their initial response on 21 November 2023 and requested the following amendments:

    (a) Deferred commencement conditions 1 (stormwater concept design) and 2 (retaining wall engineer report) to be prior to certification rather than deferred commencement

    (b) Delete Waste Management condition

    (c) Delete BASIX Certificate condition

    (d) Delete Ventilation Security and Weather Protection condition

    (e) Amend consolidation plan condition

    (f) Amend Public Domain Damage Bond for Retaining wall condition

    (g) Amend Street Tree Pruning conditions

    (h) Delete Restriction on Residential Development condition

    (i) Delete Number of Adults per room condition

    (j) Amend multiple conditions to refer to 'relevant' certification

    (k) Amend multiple Transport for NSW conditions

28. Council agreed to the amendments with the exception of:

    (a) Deferred commencement conditions 1 and 2 were to remain as deferred commencement conditions

    (b) Condition 15 (BASIX Certificate) to remain

    (c) Condition 26 (Consolidation Plan) to be remain and requiring satisfaction prior to demolition

(d) Condition 39 (Public Domain Damage Bond For Retaining Wall) updated in part to provide more information on how the bond will be calculated, however market rates are not included as these have not yet been sourced by the City.

29. LAHC provided a response on 28 November 2023 and confirmed acceptance of the draft conditions. The agreed conditions are included as Attachment A.

State Environmental Planning Policies

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

32. 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.

33. Site investigations have identified lead, polycyclic aromatic hydrocarbon (PAH), and asbestos-contaminated fill as present on the site:

34. A Remediation Action Plan (RAP) relating to the site, accompanied by a letter of interim advice by a Site Auditor has been submitted with the development application.

35. The RAP proposes to cap and contain the contaminants through on-site burial and capping, with off-site disposal to be used where required. The interim advice confirms the above approach is practical, feasible and meets EPA guidance, provided the requirement to manage capped contamination by an Environmental Management Plan (EMP).

36. The Council's Health Unit has reviewed the information provided and has recommended conditions of consent to ensure compliance with the remediation measures outlined, and for Council to be notified should there be any changes to the strategy for remediation.

37. The Council's Health Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use.

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

38. The aim of State Environmental Planning Policy (SEPP) 65 is to improve the design quality of residential apartment development in New South Wales.

39. When determining an application for a residential flat development of three or more floors and containing four or more apartments, SEPP 65 requires the consent authority take into consideration a number of matters relating to design quality, including the design quality principles as set out in Schedule 1.

40. A design verification statement and SEPP 65 design report prepared by Adam Haddow (Registered Architect NSW, No. 7188) of SJB was submitted with the application, addressing the design quality principles and the objectives of parts 3 and 4 of the Apartment Design Guide. The statement is deemed to satisfy Clause 29(2) of the Environmental Planning and Assessment Regulation 2021.

41. An assessment of the proposal against the design quality is provided as follows:

(a) Principle 1: Context and Neighbourhood Character

(i) The proposal is located along the southern boundary of Wentworth Park, and on the fringe of a railway embankment running east west. The site is generally flat, with a steep sandstone rock shelf to the rear boundary.

(ii) The surrounding residential context are predominantly low scale Victorian and Federation terraces and semi-detached housing or converted warehouse apartments.

(iii) The existing building is currently occupied as social housing, and generally has a diverse social mix within the vicinity.

(iv) The materiality of the proposal is informed by the original building on the site - masonry dwellings built around the 70s and 80s in a townhouse form.

(v) The scale of the proposal is in keeping with the existing urban streetscape of the heritage conservation area and the scale of the adjacent park and infrastructure.

(b) Principle 2: Built Form and Scale

(i) The upper 4th storey is setback and is read as a recessive storey finished in lighter masonry.

(ii) To reduce bulk, the design of the building has a staggered setback from Wentworth Park Road, and alternating projecting and recessive bays to modulate the principal facade. Recessed balconies are designed to help break up the solidity of the buildings massing.

(iii) The building has prioritized the majority of the apartments with a North facing orientation, ensuring the occupants can take advantage of the public domain, views and vistas. The front setback along Wentworth Park Road, references the existing building line, to ensure there is a buffer and relief at street level.

(c) Principle 3: Density

(i) The proposal has a floor space ratio of 1.85:1, responsive to the control of 2.25:1. All apartments experience a high level of amenity, with both views and generous private open space.

(ii) The proposal is within a short 5min walking distance of Glebe Light Rail.

(iii) Bus stops along Harris St or Broadway are the primary public transport connections into the CBD with a number of frequent bus services, within a 15min walk.

(iv) Apartment mix:

(i) Studio Apartments 9.3%
(ii) 1 Bedroom Apartments 67.4%
(iii) 2 Bedroom Apartments 23.2%

(d) Principle 4: Sustainability

(i) 17% of the total site area allows for deep soil planting, enabling ground water recharge and vegetation

(ii) On-site rainwater detention and re-use

(iii) Natural ventilation to all corridors

(iv) Maximising direct sun to apartments while utilising overhangs to control summer heat gain

(v) Integration of ceiling fans for passive ventilation - cooling and heat distribution to living and bedrooms to minimise reliance on air conditioning systems

(vi) Priority for selection of materials that are locally produced, favouring longevity and minimising maintenance

(vii) Energy-efficient lighting and appliances

(viii) Water-efficient fixtures

(ix) Proximity to public transport and local shops

(x) The high proportion of soft landscaping to roof areas effectively minimises stormwater runoff. Excess stormwater is captured and used to water the ground level landscaping.

(e) Principle 5: Landscape

(i) The proposal incorporates landscaping at a number of levels. The public domain is enhanced by both hard and soft landscaping, extending the public domain into the site and providing a visual buffer between the building entry and Wentworth Park Road.

(ii) Communal open space is provided with landscaping and seating areas, that are well shaded by tree canopies and umbrellas.

(iii) Raised planters along Wentworth Park Road provide a buffer between the communal open space along with generous ground floor private courtyards that enhance the amenity.

(iv) Apartments that look into the communal open spaces, are designed to have a planter edge to provide a soft contrast against the brickwork as a privacy buffer.

(v) The design of the building allows direct sightlines to the trees and provides opportunities to frame views from windows and balconies.

(vi) The high proportion of soft landscaping to roof areas effectively minimises stormwater runoff. Excess stormwater is captured and used to water the ground level landscaping.

(vii) Plant species have been selected to suit the location and climate, maximising the use of native species.

(f) Principle 6: Amenity

(i) Access to daylight for the general amenity of all apartments. While driven by the existing street orientations, the location and design of the apartments maximises daylight access, minimising apartment depth where possible.

(ii) Public space within the buildings with all lobbies naturally ventilated and lit.

(iii) Communal landscaped spaces have been provided for the residents.

(iv) The development contributes to the general public amenity at ground floor level through the activation of frontages via lobby spaces, access and balcony orientation.

(v) Provision of open space amenity.

(g) Principle 7: Safety

(i) Principle building entrances are clearly identifiable and allow for passive surveillance.

(ii) Clear sightlines from the building entry to the rear connections into the communal open spaces.

(iii) The bike store's location on the ground floor and close proximity to the entry, ensuring the space is always visible and reduces the burden of typically passing through basements, multiple doorways and below ground levels.

(iv) Building entrances have secure access points with video intercom.

(v) Security access in the form of swipe cards and remote controllers will be provided.

(vi) Entries will be well lit.

(vii) Increased pedestrian traffic will result from this development. This will improve passive surveillance.

(h) Principle 8: Housing Diversity and Social Interaction

(i) The proposal offers a mix of apartments ranging from studios to 1 Beds and 2 Beds, with generous balcony sizes and well-scaled communal open spaces for casual encounters and opportunities for the community to come together.

(ii) In a broader context, this project offers a positive opportunity to assist with social housing demand, providing activity in an emerging area that has good access to public transport.

(i) Principle 9: Aesthetics

(i) Proposed colours are those which are found naturally rather than primary colours, ensuring that the building sits comfortably within the urban scape.

(ii) Careful articulation of the building form has been adopted to reduce the perceived bulk of the building.

(iii) The use of 'natural' materials which require minimal maintenance.

(iv) Robust materials which are long lasting and weather naturally.

(v) When used, applied colours which are found naturally rather than primary colours.

(vi) The use of darker recessive colours so that the building is not 'shouting' to the surrounding context.

(vii) Extensive use of landscaping elements including a green roof has been proposed and screening devices.

42. The development is acceptable when assessed against the SEPP including the above stated principles and the associated Apartment Design Guide (ADG). These controls are generally replicated within the apartment design controls under the Sydney Development Control Plan 2012. Consequently, compliance with the SEPP generally implies compliance with Council's own controls.

43. A detailed assessment of the proposal against the ADG is provided below.

2E Building Depth	**Compliance**	**Comment**
12-18m (glass to glass)	No, but assessed as acceptable	The proposal has a building depth of between 10m-26m. The majority of the building form has a building depth of 18m or less and the part of the built from with a building depth of 26m includes corner units with high levels of daylight access. The proposal has been designed to ensure adequate levels of natural ventilation, cross ventilation, and daylight have been provided.

2F Building Separation	**Compliance**	**Comment**
Up to four storeys (approximately 12 metres): • 12m between habitable rooms / balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms	Yes	There is 16m of building separation between the site and the residential terraces located on the opposite side of Bellevue Street, and 12m of building separation between the site and buildings on the opposite side of Cardigan Street.

3D Communal and Public Open Space	Compliance	Comment
Communal open space has a minimum area equal to 25% of the site.	No, but assessed as acceptable	Communal open space of 17% (285sqm) is proposed. The non-compliance is acceptable given the access to Wentworth Park across the road, and as the provision of communal open space at roof level would exceed the height limit and unreasonably impact upon City skyline views to neighbours.
Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two (2) hours between 9am and 3pm on 21 June (midwinter).	Yes	The north-western communal open space achieves substantial direct solar access for 5 hours between 9am and 2pm whilst the south-western communal open space achieves a smaller amount of direct solar access between 2pm and 3pm.

3E Deep Soil Zones	Compliance	Comment
Deep soil zones are to have a minimum area equivalent to 7% of the site and have a minimum dimension of 6m	Yes	A deep soil area of 17% (285sqm) is provided.

3F Visual Privacy	Compliance	Comment
Up to four storeys (12 metres): • 6m between habitable rooms / balconies • 3m between non-habitable rooms	Yes	Design modification conditions are recommended to ensure appropriate levels of privacy are maintained at corners between different elevations of the building and at ground level. The conditions ensure that the adequate details of the privacy screen louvres are provided.
Bedrooms, living spaces and other habitable rooms should be separated from gallery access and other open circulation space by the apartment's service areas.	Yes	Bedrooms, living spaces and habitable rooms have been separated from gallery access.

4A Solar and Daylight Access	Compliance	Comment
70% of units to receive a minimum of 2 hours of direct sunlight in midwinter to living rooms and private open spaces.	Yes	81% (35/43) achieve a minimum of 2 hours of direct sunlight at midwinter.
Maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at midwinter.	No, but assessed as acceptable	18.6% (8/43) of apartments receive no direct sunlight at midwinter. The proposal was amended to maximise cross ventilation through the provision of clerestory skylights to upper-level apartments. Therefore, the minor non-compliance is acceptable.

4B Natural Ventilation	Compliance	Comment
All habitable rooms are naturally ventilated.	Yes	All habitable rooms are naturally ventilated.
Minimum 60% of apartments in the first nine (9) storeys of the building are naturally cross ventilated.	Yes	60.4% (26/43) of apartments are naturally cross ventilated. The proposal was amended to maximise cross ventilation through the provision of clerestory skylights to upper-level apartments.
Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	Yes	Cross-through apartments are a maximum of 16m in depth.

4C Ceiling Heights	Compliance	Comment
Habitable rooms: 2.7m	Yes	2.7m floor to ceiling heights are provided.

4D Apartment Size and Layout	Compliance	Comment
Minimum unit sizes: • Studio: 35m^2	Yes	Studios range from 38sqm to 40sqm. One-bedroom units range from 50sqm to 65sqm

4D Apartment Size and Layout	Compliance	Comment
• 1 bed: 50m^2 • 2 bed: 70m^2 • 3 bed: 90m^2		Two-bedroom units range from 70sqm to 80sqm.
Every habitable room is to have a window in an external wall with a minimum glass area of 10% of the floor area of the room.	Yes	Every habitable room has a window of 10% or greater of the floor area of the room.
Habitable room depths are to be no more than 2.5 x the ceiling height.	No, but assessed as acceptable	Floor to ceiling heights are 2.7m high, and some apartments have a depth of more than 6.75m (2.5 x 2.7m). All bedrooms have a compliant depth. Due to the open plan nature of the proposed living/dining rooms 21/43 apartments exceed the habitable room depth as follows: G.03 (8m), G.08 (8.9m), 1.02 (6.9m), 1.03 (8.8m) 1.04 (8.5m), 1.05 (7.6m), 1.06 (7.9m), 1.09 (8m), 1.10 (8.9m), 2.02 (6.9m), 2.03 (8.8m) 2.04 (8.5m), 2.05 (7.6m), 2.06 (7.9m), 2.10 (8.9m), 3.02 (6.9m), 3.03 (8.8m) 3.04 (8.5m), 3.05 (7.6m), 3.06 (7.9m), 3.10 (8.9m) Each of these apartments achieves other ADG requirements relating to apartment and room size and width, floor to ceiling heights and they all achieve sufficient amenity overall. Therefore the non-compliance is acceptable.
8m maximum depth for open plan layouts.	No, but assessed as acceptable	10/43 apartments exceed the maximum depth as follows: G.08 (8.9m), 1.03 (8.8m) 1.04 (8.5m), 1.10 (8.9m), 2.03 (8.8m) 2.04 (8.5m), 2.10 (8.9m), 3.03 (8.8m) 3.04 (8.5m), 3.10 (8.9m) As discussed above, each of these apartments achieve other ADG requirements relating to apartment and room size and width, floor to ceiling heights and they all achieve sufficient

4D Apartment Size and Layout	Compliance	Comment
		amenity overall. Therefore the non-compliance is acceptable.
Minimum area for bedrooms (excluding wardrobes): • master bedroom: 10m^2 • all other bedrooms: 9m^2 Minimum dimension of any bedroom is 3m (excluding wardrobes).	Yes	All bedrooms are greater than 9sqm with master bedrooms being greater than 10sqm.
Living and living/dining rooms minimum widths: • Studio and one-bedroom: 3.6m • Two-bedroom or more: 4m	Yes	The living room widths of 3.6m and 4m is achieved.
4m minimum width for cross over and cross through apartments.	Yes	Each cross through apartment has a minimum width of 4m.

4E Private Open Space and Balconies	Compliance	Comment
Studio apartments are to have a minimum balcony area of 4m^2 with a minimum depth of 1m. One bed apartments are to have a minimum balcony area of 8m^2 with a minimum depth of 2m. Two bed apartments are to have a minimum balcony area of 10m^2 with a minimum depth of 2m. Three bed apartments are to have a minimum balcony area of 12m^2 with a minimum depth of 2.4m.	Yes	Studios have private open space ranging from 8sqm to 14sqm. One-bedroom units have private open space ranging from 8sqm to 15sqm. Two-bedroom units have private open space ranging from 11sqm to 24sqm All balconies achieve the minimum depth. 8 of the apartments that face the rail line have been provided with wintergardens.

4E Private Open Space and Balconies	Compliance	Comment
Private open space for apartments on ground level, on a podium, or similar, must have a minimum area of $15m^2$ and a minimum depth of 3m.	No, but assessed as acceptable	Private open space for apartments on ground level ranges from 8sqm to 15sqm. The non-compliance is acceptable as all private open space areas open directly from living spaces and as the opportunity for larger ground level private open space areas is inhibited by the provision of communal open space for all residents of the building.

4F Common Circulation and Spaces	Compliance	Comment
The maximum number of apartments off a circulation core on a single level is eight (8).	Yes	There are a maximum of 6 apartments of a circulation core.
Primary living room or bedroom windows should not open directly onto common circulation spaces, whether open or enclosed. Visual and acoustic privacy from common circulation spaces to any other rooms should be carefully controlled.	Yes	No primary living room or bedroom windows open directly onto common circulation spaces.
Daylight and natural ventilation are provided to all common circulation spaces.	Yes	Daylight and natural ventilation are provided to all common circulation spaces.

4G Storage	Compliance	Comment
Minimum storage provision facilities: • Studio: $4m^3$ • 1 bed: $6m^3$ • 2 bed: $8m^3$	Yes	Sufficient storage space is provided within each apartment.

4G Storage	Compliance	Comment
• 3 bed: 10m^3 (Minimum 50% storage area located within unit)		

4J Noise and Pollution	Compliance	Comment
The impacts of external noise and pollution are to be minimised through careful siting and layout of buildings	Yes	The proposal has been designed to orientate the majority of units away from the noise source of the rail line. Wintergardens have been provided to 8 apartments to mitigate noise transmission.

State Environmental Planning Policy (Housing) 2021

44. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

Chapter 2 Affordable Housing

Part 2 Development for affordable housing

Part 2 Division 1: In-fill affordable housing

Clause 16 - Development to which Division applies

45. The division applies to the proposed development because:

    (a) The proposal is permissible in the R1 General Residential zone;

    (b) In excess of 20% of the GFA will be used for the purposes of affordable housing;

    (c) The site is located within an accessible area being within 400m walking distance to the public entrance to a light rail station, being Glebe Light Rail station.

Clause 17 - Floor space ratio

46. The maximum floor space ratio for development is the maximum floor space ratio for residential accommodation on the land, being 1.75:1 under the Sydney LEP 2012, plus an additional floor space ratio of 0.5:1 as at least 50% of the gross floor area of the building will be used for affordable housing. Therefore the maximum floor space ratio for the development is 2.25:1. The proposal is compliant, with a proposed floor space ratio of 1.85:1.

Clause 18 - Non-discretionary development standards

47. The object of this section is to identify development standards for particular matters relating to development for the purposes of in-fill affordable housing that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.

48. An assessment of the non-discretionary development standards is outlined in the following table:

Provision	Compliance	Comment
(2)(a) a minimum site area of 450sqm	Yes	The development satisfies this requirement as the site area is 1,633sqm.
(2)(b) for a development application made by a social housing provider—at least 35 sqm of landscaped area per dwelling	No	There are 43 dwellings provided and therefore the development standard is landscaped area of 1,505sqm is to be provided. The application provides a landscape area of 398sqm which represents a 73.5% variation to the development standard. A request to vary the Landscaped area development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.
(2)(d) a deep soil zone on at least 15% of the site area	Yes	The development satisfies this requirement as a deep soil area of 17% (285sqm) has been provided.
(2)(e) living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter	No	There are 43 dwellings and 70% is 30.1 dwellings. 15 dwellings (35%) receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter, which represents a 50% variation to the development standard. A request to vary the Solar Access development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.
(2)(f) for a development application made by a social housing provider for	No	There are 43 dwellings proposed with 33 one-bedroom and 10 two-bedroom

Provision	Compliance	Comment
development on land in an accessible area - (i) for each dwelling containing 1 bedroom - at least 0.4 parking spaces, or (ii) for each dwelling containing 2 bedrooms - at least 0.5 parking spaces, or (iii) for each dwelling containing at least 3 bedrooms - at least 1 parking space		dwellings. Therefore the development standard is 18.2. No parking spaces are provided which represents a 100% variation to the development standard. A request to vary the Parking Spaces development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.
(2)(h) for development for the purposes of residential flat buildings—the minimum internal area specified in the Apartment Design Guide for each type of apartment	Yes	The development satisfied this requirement as it provides the minimum internal area specified in the Apartment Design Guide for each type of apartment.

Clause 19 - Design requirements

49. The design is consistent with the desirable elements of the character of the local area.

Clause 20 - Continued application of SEPP 65

50. An assessment of the proposal against SEPP 65 - Design Quality of Residential Apartment Development has been undertaken above. The proposal is satisfactory with respect of SEPP 65.

Clause 21 - Must be used for affordable housing for at least 15 years

51. This clause does not apply to development on land owned by a relevant authority or to a development application made by, or on behalf of, a public authority. The development application is by Land and Housing Corporation and therefore the clause does not apply.

Clause 22 - Subdivision permitted with consent

52. The provisions of this clause permit the strata subdivision of the development. Subdivision is not proposed as part of this application. The proposal is satisfactory in this regard.

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

53. A BASIX Certificate has been submitted with the development application.

54. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

State Environmental Planning Policy (Transport and Infrastructure) 2021

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

Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network

Clause 2.48 Determination of development applications – other development

56. The application is subject to Clause 2.48 of the SEPP as the development will be carried out within 5m of an exposed overhead electricity power line.

57. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised subject to conditions.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors

Clause 2.97 – Development adjacent to rail corridors

58. The application is adjacent to the light rail corridor and was subsequently referred to Transport for NSW (TfNSW) for comment. TfNSW have recommended conditions which are included in the Notice of Determination.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017

59. The proposal includes the clearing of vegetation in a non-rural area and as such is subject to this SEPP.

60. The proposed removal of eleven trees is supported as discussed under section 3.5 of the Sydney DCP 2012 below. The removal of trees will not adversely impact upon the heritage significance of the subject site.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 6 Water catchments

61. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the above SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.

62. 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 control of improved water quality and quantity, the controls set out in Division 2 of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

63. 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 the R1 General Residential zone. The proposed development is defined as affordable housing and is permissible with consent in the zone. The proposal meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	A maximum building height of 12m is permitted. A height of 13.2m (parapet) 13.35m (lift overrun), and 14.2m (clerestory skylights) is proposed. The proposed development does not comply with the maximum height of buildings development standard. A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. See further details in the 'Discussion' section below.
4.4 Floor space ratio	Yes	A maximum floor space ratio of 1.75:1:1 under Clause 4.4. Additionally, a bonus floor space ratio of 0.5:1 is permitted under the Housing SEPP 2021 which allows for a total floor space ratio of 2.25:1 or Gross Floor Area of 3674sqm. A floor space ratio of 1.85:1 or 3,017sqm is proposed. The proposed development complies with the maximum floor space ratio development standard.

Provision	Compliance	Comment
4.6 Exceptions to development standards	Yes	The proposed development seeks to vary the development standard prescribed under Clause 4.3 of the LEP and under Clause 18 of the Housing SEPP 2021. Clause 4.6 variation requests have been submitted with the application. See further details in the 'Discussion' section below.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is located within the Lyndhurst heritage conservation area (C31). The site is adjacent to a state heritage items Glebe and Wentworth Park Railway Viaducts, Glebe (Bellevue Street) underbridge and Glebe (Wentworth Park Road) underbridge and local heritage item (I816) being street trees on Wentworth Park Road. The proposed development will not have detrimental impact on the heritage significance of the heritage conservation area and heritage items.
5.21 Flood Planning	Yes	The site is located within a flood planning area. The proposal has been reviewed by the City's Public Domain Unit and is acceptable in relation to flood behaviour, safe occupation and evacuation, risk to life, and impact on the environment, subject to recommended conditions.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21C Design excellence	Yes	The proposed development is of a high standard and uses materials and detailing which are compatible with the

Provision	Compliance	Comment
		existing development along the street and will contribute positively to the character of the area. The form and external appearance of the proposed development will improve the quality and amenity of the public domain. The proposed development will not detrimentally impact on view corridors, as discussed further under the Discussion heading below. The development addresses heritage and streetscape constraints and provides appropriate bulk, massing and modulation and street frontage heights with integrated landscape design. 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. The development therefore achieves design excellence.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.5 Residential flat buildings, dual occupancies and multi dwelling housing	Yes	A maximum of 27 car parking spaces are permitted. The proposed development includes no car parking spaces and complies with the relevant development standards.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	The proposed development is for purposes of residential accommodation that is used to provide affordable housing or public housing, which is a development type that is not subject to a

Provision	Compliance	Comment
		Section 7.13 affordable housing contribution.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on class 5 land and is 2.5m of an adjoining class. An Acid Sulfate Soils Management Plan was submitted, and a condition is recommended that the recommendations of the report be implemented.
7.19 Demolition must not result in long term adverse visual impact	Yes	The land will be comprehensively redeveloped under the development consent (if granted) and conditions are recommended to ensure adequate measures will be taken to mitigate any adverse visual impacts as a result of demolition with regard to the streetscape.

Development Control Plans

Sydney Development Control Plan 2012

64. 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

65. The site is located within the St Phillips locality. The proposed development is in keeping with the unique character and the design principles of the St Phillips locality, including to maintain the visual prominence of the tree canopy, and retaining vertically proportional façade rhythm.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1.5 Public Art	Yes	A Preliminary Public Art Plan was submitted which outlines options of public art to be integrated into the development. A condition is recommended requiring public art to be provided in accordance with the City of Sydney Guidelines for Public Art in Private Development.

Provision	Compliance	Comment
3.2. Defining the Public Domain	Yes	The proposed building has been designed to positively address the site and maximise the number of entries and include high quality finishes and public art to enhance the public domain. The interface between the development and the public domain is attractive, comfortable, safe, functional and accessible for all.
3.5 Urban Ecology	Yes	The proposal necessitates the removal of eleven trees from within the site. Of these, three are identified as being mature trees. The applicant was requested to investigate options to retain one or more trees however an alternative design was unable to both retain trees and achieve the same yield of social housing. To mitigate the impact of the loss of trees, replacement planting is proposed. The DCP requires that at least 15% canopy coverage of a site within 10 years from the completion of the development. In accordance with the DCP, the site will provide 23% canopy coverage. A design modification condition is recommended to ensure that the design maximises the soil volume available to 3 proposed trees along the Wentworth Park Road frontage. Trees located adjacent to the site and street trees are to be retained and conditions of consent have been recommended requiring that these trees are protected throughout construction and development. A design modification condition is recommended to ensure that pier and beam construction to building footings and boundary fencing within the Tree Protection Zone (TPZ) of Tree 5.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.7 Water and Flood Management	Conditioned to comply	The site is identified as being on flood prone land. A site-specific flood study was provided, and Council's Public

Provision	Compliance	Comment
		Domain unit have advised that the proposal is satisfactory with regard to flooding. Council's Public Domain team have advised that the stormwater information submitted with the application is incomplete and therefore a deferred commencement condition is recommended.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	The application was referred to Council's Specialist Surveyor, who supported the proposal, subject to condition of consent relating to lot consolidation.
3.9.1 Heritage Impact Statements	Yes	A heritage impact statement was submitted with the development application. The DCP outlines that development consent must not be granted for demolition of buildings older than 50 years old unless a heritage impact statement has been considered. The existing building is less than 50 years old and is not protected by heritage controls under the DCP.
3.9.6 Heritage conservation areas	Yes	The proposal has been designed as a suitable infill building in the heritage conservation area and Council's Heritage Specialist has not objected to the proposal.
3.9.8 Neutral and appropriate infill buildings	Yes	The DCP requires that demolition of neutral buildings only be considered where it can be demonstrated that restoration of the building is not reasonable, and that the replacement building will not compromise the heritage significance of the heritage conservation area. The demolition of the existing building will result in a significant increase in the number of social housing dwellings on site, with an increase from 17 to 43 dwellings. Therefore the restoration of the existing building is not reasonable.

Provision	Compliance	Comment
		The replacement building is an appropriate infill building and will not compromise the heritage significance of the heritage conservation area.
3.9.11 Conservation of public domain features in heritage conservation areas	Yes	The DCP requires sandstone retaining walls to be retained. Conditions are recommended relating to the protection of the sandstone retaining wall at the rear of the site. This wall supports Bellevue Street. The conditions include a deferred commencement condition requiring structural analysis of the wall and formation of controls for vibration monitoring during construction.
3.9.13 Excavation in the vicinity of heritage items and in heritage conservation areas	Yes	Appropriate conditions are recommended to ensure that the proposed excavation will not impact upon the heritage conservation and adjoining walls.
3.11 Transport and Parking	Yes	The development does not provide any car parking on site. The proposal provides for a total of 50 bicycle spaces in accordance with the DCP.
3.12 Accessible Design	Yes	The DCP requires 15% of total dwellings to be adaptable. 16.2% of dwellings (7) are adaptable. An accessible path of travel is provided to all communal areas.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	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.

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	No	The site is permitted a maximum building height of 3 storeys. The proposed development is 4 storeys in height, however the upper level has been designed with a recessive design that satisfies the objective of the control to reinforce the existing or future neighbourhood character.
4.2.2 Building setbacks	Yes	The proposed setbacks are consistent with adjoining buildings.
4.2.3 Amenity		
4.2.3.11 Acoustic privacy	Yes	A Noise Impact Assessment has been submitted with the application. The Assessment concludes that the proposed acoustic constructions of the buildings' facade including external windows will ensure that future internal noise levels comply with the relevant noise levels of the Australian Standard and the Sydney DCP 2012
4.2.3.12 Flexible housing and dwelling mix	No	The following mix of dwellings is proposed (including the terrace dwellings): Studio - 4 (0.9%) One-bedroom - 29 (67.4%) Two-bedroom - 10 (23.2%) Three-bedroom - 0 (0%) While the proposed mix is inconsistent with the DCP provisions, LAHC has advised this mix reflects the social housing needs for the area. On this basis, the proposed mix is considered acceptable.

Provision	Compliance	Comment
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.
4.2.8 Letterboxes	Yes	A condition is recommended relating to the provision of letterboxes.

Discussion

Clause 4.6 Request to Vary a Development Standard - Height

66. The site is subject to a maximum height of buildings control of 12m. The proposed development has a height of 13.2m (parapet) 13.35m (lift overrun), and 14.2m (clerestory skylights).

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

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

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

    c. The proposed development will be consistent with the objectives of the zone; and

    d. The proposed development will be consistent with the objectives of the standard.

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

68. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:

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

        (i) the variation will have negligible impact on the amenity of the surrounding area and will not impact on the ability of the proposal to achieve the relevant objectives of the Sydney LEP as set out in Clause 4.3 – Height of Buildings and for the R1 General Residential zone which applies to the site.

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

(i) The proposal exceeds the maximum building height due to design measures to accommodate the bonus floor space provided by the Housing SEPP to facilitate increased affordable housing and to accommodate the 1% AEP flood level requirements.

(ii) The building height non-compliance is required to accommodate the required flood planning levels which is subject to the 1% AEP flood event. The level established to comply with flood level requirements is RL +2.77 +0.5m (RL + 3.27). The proposal includes the required flood planning levels, which results in the need for additional building height, particularly at the front where the site slopes to Wentworth Park Road.

(iii) The proposed height exceedance is required to accommodate clerestory skylights as recommended in the RFI received from Council in June 2023 to improve solar access and cross ventilation to upper-level units. A minor height exceedance is required to accommodate the skylights; however, the extent of variation is limited to 3% of the total roof area and does not result in any significant impacts to surrounding properties.

(iv) The proposed skylights will achieve better outcomes including improved cross ventilation and amenity, while not resulting in any significant impacts to surrounding properties. The skylights have been carefully designed and located to minimise any potential impacts, such as views and overshadowing.

(v) A minor height increase is also required to provide sufficient allowance to accommodate the lift overrun. The minor height exceedance for the lift overrun is no greater than 1.35m. The minor increase does not result in any impacts.

(vi) The proposed floorspace is below the maximum allowable FSR available. The bonus floorspace is appropriately accommodated through a minor variation to height, rather than accommodating the additional floorspace within the 12m height limit which would result in increased bulk, scale, and amenity impacts. The proposal also appropriately responds to the required flood planning levels, which necessitates the need for additional height to accommodate the higher ground floor levels.

(vii) The proposal provides significant public benefit in the form of new and increased affordable housing. Despite the non-compliance, the proposed development does not result in any unreasonable amenity impacts to adjoining properties, heritage conservation area, or public domain.

(viii) The height exceedance generally does not exceed more than 10% (1.2m) except in limited circumstances where the building height non-compliance is 2.2m (18.3%) for a small part of the building. This exceedance is limited to 3% of the roof area and is required to accommodate the proposed clerestory skylights in the revised proposal.

(ix) The building height non-compliance is justified by the provision of new and increased affordable housing (critical social infrastructure), the need to respond to the required flood planning levels and providing better outcomes through improved amenity for residents. The minor building height non-compliance provides for an additional 11 affordable housing apartments on the upper level and supports increased affordable housing supply in the local area.

(x) The building height non-compliance will not result in any adverse amenity impacts. From a visual and streetscape point of view the minor extent of the variation means that the impacts would be negligible from the public domain or when viewed from surrounding properties.

(c) The proposed development will be consistent with the objectives of the zone;

(i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site). The building height non-compliance will support additional affordable housing supply without resulting in any significant additional amenity impacts to surrounding properties.

(ii) The proposal will enhance the variety of housing types providing increased affordable housing.

(iii) The proposal is for a residential flat building to be used for the purpose of affordable housing.

(d) The proposed development will be consistent with the objectives of the standard;

(i) The building height non-compliance is compatible with the surrounding built form context. The building design seeks to respond to and enhance the local character through high quality building design and use of materials consistent with the local character. The proposed building provides terrace style dwellings along Wentworth Park Road and provides staggered building setbacks to reduce bulk and scale and align with surrounding developments.

(ii) The proposed development provides an appropriate height transition to heritage items and does not impact the significance of the heritage conservation area. The proposed building is appropriately scaled and setback to reduce bulk and scale and minimise impacts.

(iii) The building height non-compliance will not impact on significant views and promotes view sharing. The proposed building has been designed to minimise impacts to views. Views to Wentworth Park Road Underbridge and viaduct, Wentworth Park, Sydney CBD (from Bellevue Street) and views within the Lyndhurst Conservation Area will be retained.

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

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

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

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

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

70. A detailed discussion with regard to the objectives of the height of buildings development standard has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the standard is both unreasonable and unnecessary, to the extent of the variations proposed.

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

71. The applicant has satisfactorily demonstrated that there are sufficient environmental planning grounds to contravene the development standard which satisfies the test under Clause 4.6(3)(b).

Is the development in the public interest?

72. The proposed development will be in the public interest because it is consistent with the objectives of the Height of Buildings development standard and the objectives for development within the R1 General zone.

Conclusion

73. For the reasons provided above the requested variation to the height of buildings development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the R1 General Residential zone.

Clause 4.6 Request to Vary a Development Standard - Landscaped Area

74. Clause 18(2)(b) of SEPP (Housing) 2021 provides a non-discretionary development standard for a development application made by a social housing provider - at least 35 sqm of landscaped area per dwelling.

75. There are 43 dwellings provided and therefore the development standard is landscaped area of 1,505sqm is to be provided. The application provides a landscape area of 398sqm which represents a 73.5% variation to the development standard.

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

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

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

(c) The proposed development will be consistent with the objectives of the zone; and

(d) The proposed development will be consistent with the objectives of the standard.

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

77. The applicant seeks to justify the contravention of the landscaped area development standard on the following basis:

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

(i) Compliance with the development standard is considered unreasonable and unnecessary in this instance as it is consistent with Clause 3 'Principles of Policy' in the Housing SEPP and the objectives of the R1 General Residential zone.

(ii) The objectives are achieved notwithstanding non-compliance. This is consistent with the five-part test established in Wehbe vs Pittwater and one of the five ways that compliance can be demonstrated to be unreasonable or unnecessary in the Guide to Varying Development Standards.

(iii) The variation to the non-discretionary development standard in Clause 18 (2) (b) of the Housing SEPP will not impact on the ability of the proposal to achieve the principles of the Housing SEPP or meet the objectives of the R1 General Residential zone.

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

(i) The provision of landscaped area is considered appropriate as it delivers significant green space and landscaping while balancing the need for renewal to provide more affordable housing.

(ii) The proposal provides 398sqm of landscaped area, including generous front landscaped setbacks, communal open space, compliant deep soil at 18% and 23% tree canopy cover, raised planters and landscaped terraces. The proposal delivers significant landscaped area and a high-quality landscape outcome.

(iii) The proposal includes a green roof with 733sqm of native landscaping provided at roof level.

(iv) The Landscape Plans demonstrate the proposal complies with the ADG and Sydney DCP requirements which include:

(i) A minimum of 10% of the site area as deep soil
(ii) At least 15% of the total site area as canopy cover within 10 years of development

(v) The proposal provides for a 18% deep soil (in accordance with DCP spatial requirements) while also providing additional deep soils areas in the front setbacks to total 23% deep soil across the site.

(vi) The proposal provides for the retention of high value street trees and new tree plantings which will provide enhanced greening on site and in surrounding streets.

(vii) The site is located close to extensive open space and recreation areas including Wentworth Park which is located opposite which provides access to extensive green space and regional level open space.

(c) The proposed development will be consistent with the objectives of the zone;

(i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).

(ii) The proposal will enhance the variety of housing types in the area and provide increased affordable housing in the local area.

(iii) The proposal is for a residential flat building to be used for the purpose of affordable housing.

(d) The proposed development will be consistent with the objectives of the standard, contained within Clause 3 Principles of Policy;

(i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).

(ii) The proposal will enhance the variety of housing types providing increased affordable housing. The proposal is for a residential flat building to be used for the purpose of affordable housing.

(iii) The proposal ensures that housing meets current accessibility and amenity standards, delivering a positive impact.

(iv) The proposal provides for 398sqm of landscaped areas and complies with the minimum deep soil and tree canopy targets in the Sydney DCP and ADG. The proposal provides large communal open space areas at the rear which will provide excellent amenity and outlook for residents.

(v) The proposal is opposite Wentworth Park providing access to regional open space within easy walking distance.

(vi) The proposal complies with the solar access requirements and cross ventilation requirements in the ADG, ensuring a high level of amenity for residents.

(vii) The site is extremely well serviced and in area and has excellent access to a range of social services and infrastructure.

(viii) The site is opposite Wentworth Park, a significant regional open space, is within a 5-minute walk to the Glebe light rail stop, providing high frequency public transport services to the CBD and Central Station. Bus services are also available a short walk from the site on Pyrmont Bridge Road.

(ix) The site also within 400-500m to Glebe Point Road high street which provides an extensive array of local shops and services, including Glebe library and local services.

(x) The proposal provides a total of 18% deep soil (23% when front setbacks included) and 23% tree canopy cover within the site boundary.

(xi) The proposal has been designed to respond to the local context and character. The proposal represents an appropriate built form and is compatible with surrounding built form character.

(xii) The proposal will deliver significant public benefit in the form of renewed and increased supply of affordable housing.

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

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

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

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

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

79. A detailed discussion with regard to Clause 3 Principles of Policy of SEPP (Housing) 2021 has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the standard is both unreasonable and unnecessary, to the extent of the variations proposed.

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

80. The applicant has satisfactorily demonstrated that there are sufficient environmental planning grounds to contravene the development standard which satisfies the test under Clause 4.6(3)(b).

Is the development in the public interest?

81. The proposed development will be in the public interest because it is consistent with Clause 3 Principles of Policy of SEPP (Housing) 2021 and the objectives for development within the R1 General zone.

Conclusion

82. For the reasons provided above the requested variation to the Landscaped Area development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 3 Principles of Policy of SEPP (Housing) 2021 and the R1 General Residential zone.

Clause 4.6 Request to Vary a Development Standard - Solar Access

83. Clause 18(2)(e) of the SEPP (Housing) 2021 provides a non-discretionary development standard that living rooms and private open spaces in at least 70% of the dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter.

84. There are 43 dwellings and 70% is 30.1 dwellings. 15 dwellings receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter, which represents a 50% variation to the development standard.

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

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

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

    (c) The proposed development will be consistent with the objectives of the zone; and

    (d) The proposed development will be consistent with the objectives of the standard.

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

86. The applicant seeks to justify the contravention of the solar access development standard on the following basis:

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

        (i) Compliance with the development standard is considered unreasonable and unnecessary in this instance as it is consistent with Clause 3 ‘Principles of Policy’ in the Housing SEPP and the objectives of the R1 General Residential zone.

        (ii) The objectives are achieved notwithstanding non-compliance. This is consistent with the five-part test established in Wehbe vs Pittwater and one of the five ways that compliance can be demonstrated to be unreasonable or unnecessary in the Guide to Varying Development Standards.

        (iii) The variation to the non-discretionary development standard in Clause 18 (2) (e) of the Housing SEPP will not impact on the ability of the proposal to achieve the principles of the Housing SEPP or meet the objectives of the R1 General Residential zone.

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

(i) The proposal has been designed to comply with solar access criteria in the ADG, which requires at least 2 hours of solar access to 70% of apartments in mid-winter. The proposal achieves excellent solar access, with 81% of all apartments receiving at least 2 hours of solar access in mid-winter.

(ii) The proposal has been designed to ensure the number of apartments oriented to the north and north-west is maximised, within only a limited number of south facing apartments at the rear. Apartments at the rear have been designed with outlook to communal open space and landscaped areas to maximise daylight access and amenity.

(c) The proposed development will be consistent with the objectives of the zone;

(i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).

(ii) The proposal will enhance the variety of housing types in the area and provide increased affordable housing in the local area.

(iii) The proposal is for a residential flat building to be used for the purpose of affordable housing.

(d) The proposed development will be consistent with the objectives of the standard, contained within Clause 3 Principles of Policy;

(i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).

(ii) The proposal will enhance the variety of housing types providing increased affordable housing. The proposal is for a residential flat building to be used for the purpose of affordable housing.

(iii) The proposal ensures that housing meets current accessibility and amenity standards, delivering a positive impact.

(iv) The proposal complies with the solar access requirements and cross ventilation requirements in the ADG, ensuring a high level of amenity for residents.

(v) The proposal achieves at least 2 hours solar access to 81% of apartments in mid-winter, exceeding the requirements in the ADG.

(vi) The site is extremely well serviced and has excellent access to a range of social services and infrastructure.

(vii) The site is opposite Wentworth Park, a significant regional open space, is within a 5-minute walk to the Glebe light rail stop, providing high frequency public transport services to the CBD and Central Station. Bus services are also available a short walk on Pyrmont Bridge Road.

(viii) The site also within 400-500m to Glebe Point Road high street which provides an extensive array of local shops and services, including Glebe library and local services.

(ix) The proposal provides a high level of amenity, with high levels of solar access and natural ventilation to apartments, and generous deep soil and tree canopy cover provided.

(x) The proposal has been designed to respond to the local context and character. The proposal represents an appropriate built form and is compatible with surrounding built form character.

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

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

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

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

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

88. A detailed discussion with regard to Clause 3 Principles of Policy of SEPP (Housing) 2021 has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the standard is both unreasonable and unnecessary, to the extent of the variations proposed.

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

89. The applicant has satisfactorily demonstrated that there are sufficient environmental planning grounds to contravene the development standard which satisfies the test under Clause 4.6(3)(b).

Is the development in the public interest?

90. The proposed development will be in the public interest because it is consistent with Clause 3 Principles of Policy of SEPP (Housing) 2021 and the objectives for development within the R1 General zone.

Conclusion

91. For the reasons provided above the requested variation to the Solar Access development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with Clause 3 Principles of Policy of SEPP (Housing) 2021 and the R1 General Residential zone.

Clause 4.6 Request to Vary a Development Standard - Parking Spaces

92. Clause 18(2)(f) of SEPP (Housing) 2021 provides a development standard for a development application made by a social housing provider for development on land in an accessible area -

    (i) for each dwelling containing 1 bedroom - at least 0.4 parking spaces, or

    (ii) for each dwelling containing 2 bedrooms - at least 0.5 parking spaces, or

    (iii) for each dwelling containing at least 3 bedrooms - at least 1 parking space

93. There are 43 dwellings proposed with 33 one-bedroom and 10 two-bedroom dwellings, therefore the development standard is 18.2. No parking spaces are provided which represents a 100% variation to the development standard.

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

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

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

    (c) The proposed development will be consistent with the objectives of the zone; and

    (d) The proposed development will be consistent with the objectives of the standard.

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

95. The applicant seeks to justify the contravention of parking spaces development standard on the following basis:

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

        (i) Compliance with the development standard is considered unreasonable and unnecessary in this instance as it is consistent with Clause 3 ‘Principles of Policy’ in the Housing SEPP and the objectives of the R1 General Residential zone.

        (ii) The objectives are achieved notwithstanding noncompliance. This is consistent with the five-part test established in Wehbe vs Pittwater and one of the five ways that compliance can be demonstrated to be unreasonable or unnecessary in the Guide to Varying Development Standards.

        (iii) The variation to the non-discretionary development standard in Clause 18 (2) (f) of the Housing SEPP will not impact on the ability of the proposal to achieve the principles of the Housing SEPP or meet the objectives of the R1 General Residential zone.

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

(i) No car parking is proposed to be provided which is consistent with maximum car parking rates in the Sydney LEP as well as NSW LAHCs operational requirements.

(ii) If the parking rates in Clause 18 of the Housing SEPP were complied with, the proposal would need to provide 18 car parking spaces. This would impact the amount of new housing that could be provided, add significant cost, and impact the design and layout of the proposal to accommodate parking. It would also likely impact high value street trees along Wentworth Park Road to accommodate basement entry.

(iii) The proposal includes bicycle parking in accordance with the Sydney DCP, providing 44 resident bike parking within the building at ground level and 6 visitor bike parking provided within the front setback along Wentworth Park Road.

(iv) The Traffic and Parking Report prepared to support the development application outlines the suitability of providing no car parking, as it is in very convenient proximity to public transport services (bus and light rail) as well as shopping/entertainment facilities in Glebe and the CBD, minimising the need for private vehicle use.

(c) The proposed development will be consistent with the objectives of the zone;

(i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).

(ii) The proposal will enhance the variety of housing types in the area and provide increased affordable housing in the local area.

(iii) The proposal is for a residential flat building to be used for the purpose of affordable housing.

(d) The proposed development will be consistent with the objectives of the standard, contained within Clause 3 Principles of Policy;

(i) The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).

(ii) The proposal will enhance the variety of housing types providing increased affordable housing. The proposal is for a residential flat building to be used for the purpose of affordable housing.

(iii) The proposal ensures that housing meets current accessibility and amenity standards, delivering a positive impact.

(iv) The proposal complies with the solar access requirements and cross ventilation requirements in the ADG, ensuring a high level of amenity for residents.

(v) The proposed apartments are appropriately designed to meet tenants needs and includes an internal lift for better accessibility, and in an area with good access to services.

(vi) The site is extremely well serviced and has excellent access to a range of social services and infrastructure.

(vii) The site is opposite Wentworth Park, a significant regional open space, is within a 5-minute walk to the Glebe light rail stop, providing high frequency public transport services to the CBD and Central Station. Bus services are also available a short walk from the site on Pyrmont Bridge Road.

(viii) The site also within 400-500m to Glebe Point Road high street which provides an extensive array of local shops and services, including Glebe library and local services.

(ix) The proposal proposes no on-site car parking which will result in positive environmental outcomes. The proposal provides 44 resident bike parking spaces, and is located close to public transport, promoting active and sustainable travel modes.

(x) The proposal has been designed to respond to the local context and character. The proposal represents an appropriate built form and is compatible with surrounding built form character.

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

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

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

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

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

97. A detailed discussion with regard to Clause 3 Principles of Policy of SEPP (Housing) 2021 has been provided and satisfies the test under Clause 4.6(3)(a), in that compliance with the standard is both unreasonable and unnecessary, to the extent of the variations proposed.

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

98. The applicant has satisfactorily demonstrated that there are sufficient environmental planning grounds to contravene the development standard which satisfies the test under Clause 4.6(3)(b).

Is the development in the public interest?

99. The proposed development will be in the public interest because it is consistent with Clause 3 Principles of Policy of SEPP (Housing) 2021 and the objectives for development within the R1 General zone.

Conclusion

100. For the reasons provided above the requested variation to the Parking Spaces development standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with Clause 3 Principles of Policy of SEPP (Housing) 2021 and the R1 General Residential zone.

Design Advisory Panel Residential Subcommittee

101. The proposal was referred to the City's independent Design Advisory Panel Residential Subcommittee (DAPRS) on 7 March 2023.

102. The recommendations of the Panel are outlined in the table below.

Design Advisory Panel Recommendations	Response
The increased net amount of social housing is supported by the Panel.	The support for the increase in social housing on site is noted.
The removal of some viable trees and the non-compliances with landscape controls should be addressed. The proposed tree planting provision is unacceptable (18%). New medium to large trees should be provided to offset the substantial reduction in existing canopy (49%). An appropriate canopy cover and tree replacement strategy should be developed. Consideration should be given to including more trees in the front landscape setback. Plans should clearly annotate the proposed tree species.	The revised plans achieve an increase in canopy cover from 18% to 23%. This is an improvement of 5% canopy cover, and significantly exceeds the DCP requirement for new development to 'provide at least 15% canopy coverage of a site within 10 years from the completion of development'. The proposal includes an additional three new trees proposed in the front setback and one additional tree in the rear communal open space to increase canopy cover.
Further investigation into the retention of Tree 23 should be undertaken. The basement level, Apartments G.10, 1.11, 2.11 and 3.11 could be re-planned. It should be demonstrated that Tree 19 will need to be removed to repair/reconstruct the adjacent retaining wall.	The retention of Tree 19 and Tree 23 has been carefully explored and will result in significant loss of apartment yield which would be detrimental to the supply of new social housing in the area. Analysis undertaken by SJB demonstrates that the retention of Tree 19 or Tree 23 would have a significant impact on the apartment yield. The retention of Tree 19 would result in a reduced yield of 38 apartments – a reduction of 5 social housing apartments. The retention of Tree 23 would result in a reduced yield of 36 apartments – a reduction of 7 social housing apartments.

Design Advisory Panel Recommendations	Response
	The applicant submits that the proposal balances the retention of trees and enhanced tree canopy cover with the need to deliver increased social housing in an area of critical need. The current wait list for social housing exceeds 2,000 in the City of Sydney LGA. In this context, the tree loss is on balance, acceptable.
The proposal exceeds the LEP height control and the DCP storey control however the proposal does not appear to bring with it significant view loss or negative overshadowing impacts. Given the steepness of the site and the proposed green roof, the Panel considers the height exceedance to be acceptable. However, the inclusion of some solar panels should be investigated in a form that maintains the green roof and neighbours' views.	The support for the proposed height is noted. The applicant submits that the inclusion solar panels has been investigated, however, the amended proposal seeks to increase the area of green roof from 35% to 76%. The green roof will improve greening outcomes and provide enhanced amenity for neighbours.
A number of important ADG targets have not been met. Solar access, cross ventilation and separation for privacy should be improved, for example, clerestory skylights could increase solar access and cross ventilation.	The proposal was amended to provide clerestory skylights and the amended proposal achieves 81% of apartments achieving solar access for 2 hours at midwinter and 60.4% of apartments being cross ventilated, which is consistent with the ADG requirements. The proposed building separation is consistent with the design guidance of the ADG, however design modification conditions are recommended to maximise visual privacy between units at internal corners of the building and at ground level facing Wentworth Park Road and to the communal open space areas. The conditions ensure that adequate details of the privacy screen louvres are provided.
The amount of communal open space does not meet ADG compliance, however the Panel notes that occupants will have good access to Wentworth Park.	This comment is noted.
Window configurations to allow secure, weatherproof natural ventilation. Large awning windows do not perform well for cross-ventilation and sliding doors should	Window configurations have been revised to include a bay of awning windows into the bedroom glazing suite and remove 1x sliding panel to allow for secure, weatherproof natural ventilation to single aspect apartments.

Design Advisory Panel Recommendations	Response
not be the only means of achieving natural ventilation for a habitable room	
The intersection of the internal common circulation areas be reorganised to provide clearer sightlines and better spatial configuration. Better provision of natural light for Lift 1 Lobby on the Ground Floor	The lobby design has been revised to allow extra light into the corridor and lobby area.
Relocate private stairs from the street to the entrance terraces of units G.01-04 so the paths to front doors do not pass directly in front of bedroom windows. Landscaped gardens to be amended at the same time to further improve privacy to ground floor bedrooms.	The entry stair to G.01 does not pass in front of bedroom and no change is required to improve privacy. Entry stair and opening in facade to Unit G.02 cannot be amended due to proximity to substation chamber. However, the internal layout has been rearranged to position living area directly adjacent to stair to improve privacy. Layout of G.03 has been mirrored to position living area in front of stair. Entry stair of G.04 has been repositioned in front of living area.
Air-conditioning units should not be placed on terraces or balconies	LAHC have advised that they do not provide air-conditioning as part of their developments.
Although plenums are not accounted for in cross-ventilation calculations Units 1.02 and 1.03, 1.06, 1.08 and 1.10 would benefit from some passive through-ventilation	Cross ventilation has been improved for the proposal through the inclusion of the proposed skylights and ceiling fans which are provided in all apartments to improve passive through-ventilation. The lobby is also naturally ventilated
Provide better privacy between balconies in the south-west corner	The revised plans provide additional privacy screening to ensure apartments at the rear do not overlook each other. Design modification conditions are recommended to require additional detail in relation to privacy screening.
Review Ground Floor privacy for units facing Communal Open Space	Ground floor privacy will be achieved through landscaping treatment and mounding in the area in front of the ground floor terraces to improve privacy between apartments and communal open space. Design modification conditions are recommended to require

Design Advisory Panel Recommendations	Response
	additional detail in relation to privacy screening.
The waste room and substation locations are not optimal but are a result of site constraints including flooding and utilities access standards. However, the Panel queries if the internal ramp to the waste room is required given the external ramp is undercover.	The support for the waste room and substation locations are noted. The internal ramp within the waste room was deleted. The amended scheme is satisfactory.
The vertical rhythm strategy is persuasive but may be 'too much.' The Panel understands this is both a response to the traditional rhythm of nearby terrace houses and is a direct response to the required building setbacks for the building. Reducing the number of steps in the eastern facade may require a breach of the setback controls. A modest incursion in one or two instances to allow a single apartment to present as a single form may help. It may be that units 1.01/1.02 and 1.06/1.07 need to be an average line of best fit.	The applicant submits that the vertical rhythm of the proposal is designed to be in keeping with the vertical expression of the surrounding terrace housing typology, particularly the street along Bellevue Street. Reducing the quantity of 'staggers' removes the strength of the slender vertical proportions, while 'flattening' the elevation to visually make the massing appear wider. The current staggering layout provides a distinction from the private spaces (bedrooms) vs open spaces (living areas). Conceptually it adds to the pushing and pulling effect between the positive and negative elements of the massing. Additionally, the current stepping of setbacks carefully considers the interface of the street, existing tree canopies and sufficient clearance for the new proposed landscape canopies. This includes making spatial clearance for the London Plane tree (T05) at the street, as well as providing sufficient setback for the new Ivory Curl trees to establish a generous future canopy, without impeding on the façade of the building. Therefore the proposed vertical rhythm is considered acceptable.
The choice of brickwork for the top floor was discussed. The white brick element will possibly read as a fourth storey rather than a roof however this may be justified by considering the broader context.	The support for the proposed brickwork is noted.

Design Advisory Panel Recommendations	Response
A section through Unit 1.11 balcony and the adjoining parking area should be provided to show any privacy and security issues and how they can be resolved.	The revised plans include a metal louvres fence on the boundary to provide privacy and security to Unit 1.11. A section is provided of Unit 1.11 and the adjoining parking area which demonstrates privacy and security to Unit 1.11 is achieved.
The landscape sections do not show sufficient detail of the site boundaries including existing trees, soil levels and existing and proposed edges. This is critical, particularly adjacent to trees T16 and T11. Further detail should be provided including existing trees and soil levels, critical root zones, tree protection zones and all proposed works and proposed levels. The design response should show how expert arboricultural advice has informed the detailed design resolution.	Amended landscape plans have been submitted which provide additional detail of the site boundaries, soil levels and existing trees as requested. The amended landscape plans have been reviewed by Council's Landscape Assessment officer and are acceptable.

103. The proposal, subject to conditions, achieves an appropriate design outcome that responds to the issues raised by the Panel and is recommended for deferred commencement approval on this basis.

View Sharing

104. A number of submissions raised concerns with the loss of views towards the skyline of the Sydney Central Business District.

105. The concerns relate to views from residential terraces located at 70 and 72 Bellevue Street. Due to the topography of the land Bellevue Street is elevated above the site.

106. The location of these properties is shown in the map extract reproduced in the figure provided below.



Figure 31: The subject site (shown in blue) and properties with objectors with view loss concerns (shown in red)



Figure 32: The neighbouring properties where view assessments were conducted

107. The proposal must satisfy the objectives of the building height control, including objective 4.3(1)(c) of the Sydney LEP 2012 which states "to promote the sharing of views".

108. It must also satisfy the design excellence provisions including Clause 6.21C(2)(c) of the Sydney LEP 2012 which states "whether the development detrimentally impacts on view corridors".

109. The applicant submitted a view impact assessment report to analyse the view sharing impacts of the proposal (reproduced at Attachment G).

110. The view impact assessment report has been reviewed by Council's model makers who have confirmed that the images provided within the report accurately model the impacts to views from these apartments.

111. A summary of the City's assessment of the impacts to the two dwellings is summarised in the table below:

Site	View impact assessment reference	View impact
70 Bellevue Street		
Balcony outside Living/Dining on Level 1	Viewpoint 01 Pages 5-8	No impact, the City skyline views are retained and expanded as a result of the proposal
Living/Dining on Level 1	Viewpoint 02 Pages 9-12	No impact, the City skyline views are retained and expanded as a result of the proposal
Bedroom on Level 2	Viewpoint 03 Pages 13-16	No impact, the City skyline views are retained and expanded as a result of the proposal
72 Bellevue Street		
Balcony outside Living/Dining on Level 1	Viewpoint 05 Pages 17-20	No impact, the City skyline views are retained and expanded as a result of the proposal
Living/Dining on Level 1	Viewpoint 06 Pages 21-24	No impact, the City skyline views are retained and expanded as a result of the proposal
Bedroom on Level 2	Viewpoint 07 Pages 25-28	No impact, the City skyline views are significantly obstructed by existing trees and expanded as a result of the proposal

Site	View impact assessment reference	View impact
External Terrace Deck on Ground Floor	Viewpoint 08 Pages 29-32	Partial impact, however the existing view is very obstructed by existing trees and is not an intact view of the city skyline.

112. Assessment of view impacts is undertaken based on the principles of view sharing established in *Tenacity Consulting v Warringah Council [2004]* NSWLEC 140 by the Land and Environment Court of New South Wales.

113. In the Tenacity case, Senior Commissioner Roseth notes that:

> *The notion of view sharing is invoked when a property enjoys existing views and a proposed development would share that view by taking some of it away for its own enjoyment. (Taking it all away cannot be called view sharing, although it may, in some circumstances, be quite reasonable.)*

114. To decide whether view sharing is reasonable or not, Senior Commissioner Roseth developed a four step assessment, which is summarised in part below:

    (a) The first step is the assessment of views to be affected. Water views are valued more highly than land views. Whole views are valued more highly than partial views, e.g. a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

    (b) The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. The expectation to retain side views is often unrealistic.

    (c) The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas.

    (d) The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them.

115. The City's assessment against the four steps for each property with a view impact is outlined below.

116. 70 Bellevue Street:

    (a) Views to be affected: Views of City skyline and Wentworth Park. This view is already obscured by existing trees between the subject site and the city and is a partial view not a whole view.

    (b) Part of property viewed from: Views are from Viewpoint 01, 02 and 03 which is the Level 1 balcony, Level 1 living/dining and Level 2 bedroom.

    (c) Extent of impact: The views to the City skyline are retained and expanded by the proposal, whilst the partial views of the Wentworth Park from Level 2 are removed.

(d) Reasonableness: The only view impacted is a limited view to Wentworth Park from the Level 2 bedroom. The existing view to Wentworth Park is not a significant view and the impact to this view is considered reasonable, noting that the more desirable City skyline are retained. It is noted there is a loss of outlook to existing trees as a result of the proposal, however the impacts to outlook are not a matter to be considered under the Tenacity principle.



Figure 33: The existing view from the Level 1 balcony of 70 Bellevue Street



Figure 34: The impact on the view of Sydney skyline from this view point.



Figure 35: The existing view from the Level 2 bedroom of 70 Bellevue Street



Figure 36: The impact on the view of Sydney skyline from this view point.

117. 72 Bellevue Street:

(a) Views to be affected: Views of City skyline. This view is already obscured by existing trees between the subject site and the city and is a partial view not a whole view.

(b) Part of property viewed from: Views are from Viewpoint 04, 05 and 06 which is the Level 1 balcony, Level 1 living/dining and ground level front courtyard.

(c) Extent of impact: The views to the City skyline are retained and expanded by the proposal when viewed from Level 1, and the limited views from ground level are obstructed by the proposal.

(d) Reasonableness: The only view impacted is a limited view to a small part of the City skyline from the ground level terrace. This view is not a significant view and the impact to this view is considered reasonable, noting that the more desirable City skyline views from Level 1 are retained. It is noted that there is a loss of outlook to existing trees as a result of the proposal, however the impacts to outlook are not a matter to be considered under the Tenacity principle.

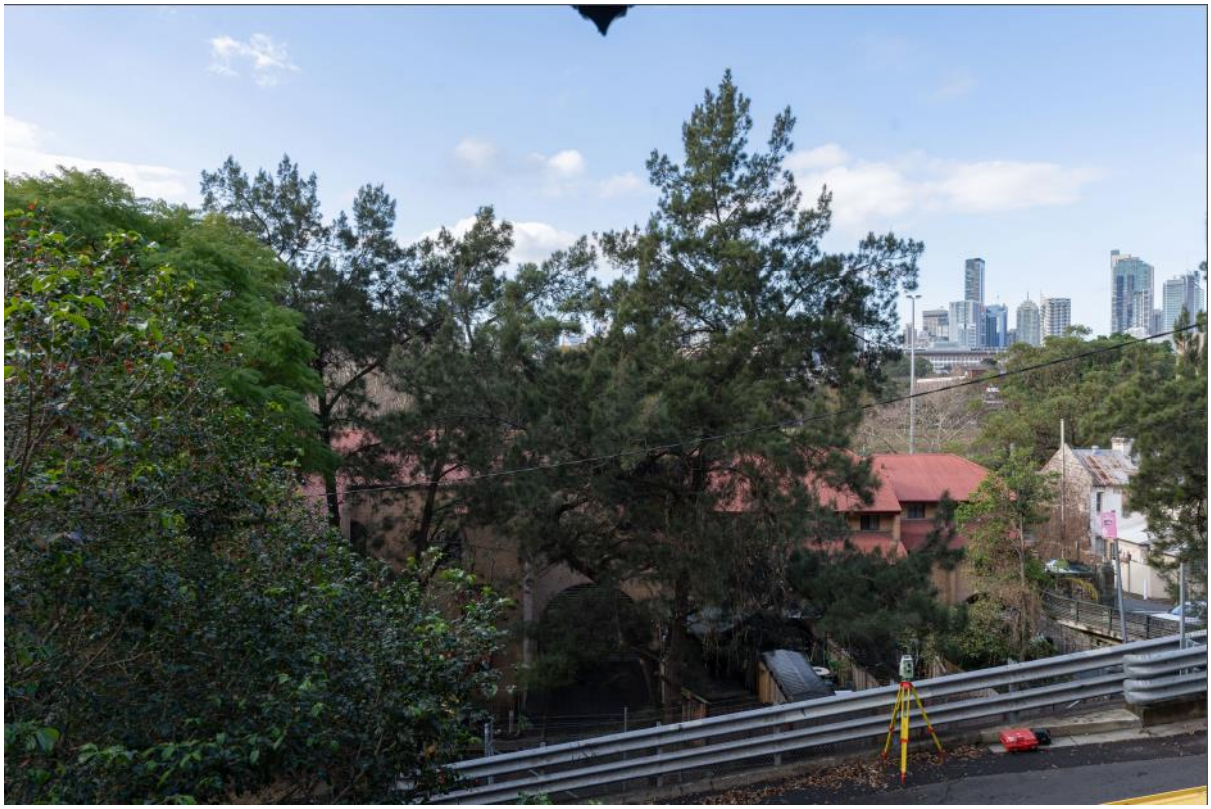

Figure 37: The existing view from balcony of Level 1 of 72 Bellevue Street



Figure 38: The impact on the view of Sydney skyline from this view point



Figure 39: The existing view from the ground level front courtyard of 72 Bellevue Street



Figure 40: The impact on the view of Sydney skyline from this view point.

Consultation

Internal Referrals

118. The application was discussed with Council's:

    (a) Building Services Unit;

    (b) Environmental Health Unit;

    (c) Heritage and Urban Design Unit;

    (d) Landscape Assessment Officers;

    (e) Public Domain Unit;

    (f) Safe City Unit;

    (g) Land Surveyor;

    (h) Transport and Access Unit;

    (i) Waste Management Unit.

119. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

Ausgrid

120. Pursuant to Section 2.47 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.

121. A response was received raising no objections to the proposed development, subject to conditions.

Transport for NSW

122. Pursuant to Section 2.99 of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for concurrence.

123. Concurrence was received on 27 April 2023. Conditions of consent were recommended which are included in the Notice of Determination.

Advertising and Notification

124. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 28 days between 14 February 2023 and 15 March 2023. A total of 27 unique submissions and 349 pro-forma submissions were received.

125. The amended proposal was re-notified for a period of 14 days between 21 August and 5 September. A total of 2 submissions were received.

126. The submissions raised the following issues:

(a) **Issue:** Sydney and NSW are currently experiencing a housing crisis with more than 51,000 households on the waiting list. Demolishing existing public housing and rehousing current residents in other public homes will lengthen the wait time for applicants

Response: The proposal will result in an increase in the number of social housing dwellings from 17 to 43 and will result in an increase in supply of social housing.

(b) **Issue:** The site houses many people, some of whom have lived there for over 30 years. The relocation process and uncertainty around it has caused significant disruption.

Response: The relocation of existing tenants has been planned by LAHC.

(c) **Issue:** The existing building is only 35 years old is well built and could be refurbished for less cost than demolition. There is embodied carbon in the building and more carbon will be used to rebuild. The existing building should be retained and refurbished rather than demolished.

Response: The planning controls that apply to the site do not prevent or restrict the demolition of the existing building.

(d) **Issue:** Height of the proposed development exceeds the planning regulations and will significantly block views. Inadequate Clause 4.6 request.

Response: As discussed above, the proposed height, the view sharing outcomes and the Clause 4.6 request are acceptable.

(e) **Issue:** Privacy impacts due to windows from new apartments

Response: Adequate building separation is provided to surrounding sites to ensure that there are no unreasonable privacy impacts to surrounding developments.

(f) **Issue:** Removal of trees and greenery

Response: The application includes the removal of 11 trees, and this includes the removal of 3 trees of medium retention value. Whilst there will be some impact from the loss of these trees, on balance, the tree removal and replacement tree planting is considered to be acceptable as it will enable the comprehensive redevelopment to increase the yield of social housing. The applicant explored options to retain one or more trees however it was not possible to achieve an alternate design that allowed for tree retention whilst achieving the same yield. The application will provide 23% canopy coverage which exceeds the 15% canopy coverage requirement of the Sydney DCP 2012.

(g) **Issue:** Lack of parking and impact on local street parking

Response: The parking controls under the Sydney LEP 2012 are maximum controls and there is no requirement to provide parking on site. The site is located in close proximity to a number of public transport options and the provision of no parking is acceptable.

(h) **Issue:** An alternative proposal prepared by Hector Abrahams Architects shows why the current proposal should be rejected.

Response: The assessment of this development application has been carried out to determine whether the application, as proposed by the landowner, will provide an appropriate planning outcome when assessed against the planning controls. The assessment concludes that the proposal is acceptable.

(i) **Issue:** The cost of the development.

Response: The cost of the development incurred by the applicant is not a matter of consideration under the planning framework.

(j) **Issue:** The proposal will reduce the supply of public housing while demolition and rebuilding takes place.

Response: This is not a matter for consideration under the planning framework.

(k) **Issue:** The proposal is family unfriendly because its largest apartments have only two bedrooms

Response: LAHC have advised that the proposed unit mix reflects the demand for social housing.

(l) **Issue:** Refurbishment and extension would result in equal yield for less cost

Response: The development application proposes the demolition of the existing building and substantial redevelopment, which has been assessed as acceptable under the planning controls.

(m) **Issue:** Impact upon the heritage conservation area

Response: The proposal has been reviewed by Council's Heritage Specialist who has advised that the demolition of the existing building, which has a neutral contribution to the heritage conservation area, is acceptable, and that the proposal is an appropriate infill building within the heritage conservation area.

(n) **Issue:** The proposal does not comply with the Sydney DCP 2012 or SEPP 65 in relation to views and context

Response: As outlined above, the proposal has been assessed as acceptable against the relevant planning controls including Sydney LEP 2012, Sydney DCP 2012, SEPP 65 and the SEPP (Housing) 2021.

(o) **Issue:** Impacts during construction

Response: A number of conditions are recommended to ensure that impacts during construction are minimised.

(p) **Issue:** Potential stormwater and flooding impacts

Response: The proposal has been designed to the appropriate flood levels. Conditions have been recommended in relation to stormwater, including a deferred commencement condition to ensure that the final stormwater design does not impact upon the existing stormwater network.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

127. The development is not subject to a Section 7.11 development contribution as it is a type of development, being affordable or social housing by a social housing provider, listed in Table 2 of the City of Sydney Development Contributions Plan 2015 and is excluded from the need to pay a contribution.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

128. As the development is development for the purposes of residential accommodation that is used to provide affordable housing or public housing, the development is excluded and is not subject to a Section 7.13 affordable housing contribution.

Relevant Legislation

129. Environmental Planning and Assessment Act 1979.

Conclusion

130. The development application seeks consent for demolition of existing buildings, tree removal, and construction of a four storey residential flat building for 43 affordable housing dwellings for use as social housing.

131. The development is a Crown development application with the land owner being the NSW Land and Housing Corporation.

132. The application was presented to the City's Design Advisory Panel Residential Subcommittee (DAPRS) who supported the increase in social housing dwellings, the proposed height and the materiality. A number of recommendations have been addressed via amended plans.

133. The proposed development is compliant with the permitted FSR control of 2.25:1 under the Sydney LEP 2012 of 1.75:1 and the Housing SEPP 2021 of 0.5:1. The proposal exceeds the 12m height of building development standard by 2.2m (18%). The applicant has submitted a clause 4.6 written request seeking to vary the development standard, and the clause 4.6 request is supported.

134. The applicant has submitted three clause 4.6 written requests seeking to vary development standards of the State Environmental Planning Policy (Housing) 2021 relating to landscaped area, solar access and parking spaces. The clause 4.6 requests are supported.

135. The proposal is generally compliant with SEPP 65 and the Apartment Design Guide (ADG). Overall, the proposal provides acceptable amenity for the future residents and acceptable amenity impacts on neighbouring developments.

136. The proposal responds satisfactorily to surrounding developments and its context and achieves a standard of architectural design that is considered to demonstrate design excellence.

137. The proposal is recommended for deferred commencement approval.

138. As the application is a Crown development application, the draft conditions were provided to Land and Housing Corporation, who have agreed to the recommended conditions.

ANDREW THOMAS

Executive Manager Planning and Development

Matthew Girvan, Area Coordinator

Attachment A

Recommended Conditions of Consent

SCHEDULE 1

SECTION A - 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) The consent is not to operate until the following condition is satisfied, within **24 months** of the date of this determination:

(1) STORMWATER CONCEPT DESIGN

The following information is to be submitted to and approved by City's Public Domain Unit:

(a) The Stormwater Drainage system must be designed in accordance with the City's standard requirements as detailed in the City of Sydney's Stormwater Drainage Manual, Sydney Streets Technical Specifications-Part A4 Stormwater Drainage Design, Sydney Streets Technical Specifications-Standard Drawings, and relevant Australian Standards.

(b) Provide updated design documentation (clearly show catchment areas, capacity, size, pipe longitudinal sections, etc).

(c) Provide correct downstream boundary conditions in DRAINS model according to section 4.7.3.5 Downstream boundary conditions.

(d) Overland flow, including area of the existing retaining wall below Bellevue Street shall be considered for the 1% AEP storm event and the proposed system of swales within private property shall be sufficient to direct the flow to Council's stormwater system.

(e) Clarification regarding the proposed 2 x 225 mm internal pipelines to be connected to the existing Council's pipe 300mm is required.

(f) Where an OSD is not required by Sydney Water one may still be required by the City.

(g) Longitudinal section must be revised accordingly (drawing number DA08).

(h) Connection to Council system must be via RCP.

(i) Non return valve must be installed within the control pit.

(j) Drawing number DA05 must be updated to provide for correct pit labels in stormwater plan, refer 4.5.7 catchment plan for details.

(k) Pit 1 (1/1) Junction pit is within the public domain. Drawing number DA05 must be updated to reference City junction pit or provide detail on the proposed junction pit. Due to risk of surcharging within a flood prone area, a note to be included that the stormwater pit shall be bolted down.

Reason

To ensure stormwater drainage design complies with Council's requirements.

(2) RETAINING WALL

A report prepared by an experienced Structural Engineer, is to be submitted to and approved by the City's Public Domain Unit which includes the following:

(a) Detailed documentation confirming the existing structural condition of the retaining wall.

(b) Assessment of the structural stability of the existing wall, including above ground and below, and any affected adjoining structure attached to the wall.

(c) A detailed geotechnical monitoring plan which is to be implemented during construction, outlining controls, trigger levels, and monitoring requirements for ground and wall movements, and vibrations. It is to be noted that the existing sandstone block wall is considered to be sensitive and vibration limits must be imposed with full time vibration monitoring.

(d) Recommendations on the proposed basement excavation shall consider:

(i) Minimal impact on the existing retaining wall.

(ii) A well-designed pile wall which shall eliminate the need for ground anchors under the retaining wall (to avoid any ground movement at the sandstone block wall as a result of the basement excavation).

(iii) A method of installation of any new required piles near the existing sandstone block wall to minimise disturbance.

Reason

To establish and document the condition of the retaining wall for comparison as building work progresses and is completed.

(B) Evidence that will sufficiently enable Council to be satisfied as to those matters identified in deferred commencement conditions, as indicated above, must be submitted to Council within 24 months of the date of determination of this deferred commencement consent failing which, this deferred development consent will lapse pursuant to section 4.53(6) of the Environmental Planning and Assessment Act 1979.

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

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

SECTION B - CONDITIONS OF CONSENT

PART A - GENERAL

(1) APPROVED DEVELOPMENT

(a) Development must be in accordance with Development Application No. D/2023/21 dated 24/10/2023 and the following drawings prepared by SJB:

Drawing Number	Drawing Name	Date
DA-0301 / 6	Demolition Plan	10/11/2023
DA-0302 / 2	Demolition Elevation - North	10/11/2023
DA-0303 / 2	Demolition Section A	10/11/2023
DA-0304 / 2	Demolition Section B	10/11/2023
DA-1001 / 8	Floor Plan - Basement	10/11/2023
DA-1002 / 13	Floor Plan - Ground	10/11/2023
DA-1003 / 8	Floor Plan – Level 1	10/11/2023
DA-1004 / 8	Floor Plan – Level 2	10/11/2023
DA-1005 / 8	Floor Plan – Level 3	10/11/2023
DA-1006 / 10	Floor Plan - Roof	10/11/2023
DA-1401 / 7	Elevation - North	10/11/2023
DA-1402 / 7	Elevation – South	10/11/2023
DA-1403 / 7	Elevation – East	10/11/2023
DA-1404 / 7	Elevation - West	10/11/2023
DA-1501 / 8	Section A	10/11/2023
DA-1502 / 8	Section B	10/11/2023
DA-1503 / 6	Section C	10/11/2023
DA-1504 / 6	Section D	10/11/2023
DA-1505 / 3	Bike Room	10/11/2023
DA-1506 / 2	Fence	10/11/2023
DA-4401 / 4	Adaptable Layout - 2Bed	10/11/2023

Drawing Number	Drawing Name	Date
DA-4402 / 3	Adaptable Layout - 1Bed Type 1	10/11/2023
DA-4403 / 4	Adaptable Layout - 1Bed Type 2	10/11/2023

and as amended by the conditions of this consent.

(b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.

Reason

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

(2) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

(a) The balustrade details to ground floor apartments facing Wentworth Park Road are to be of fixed angled slats that ensure privacy is maintained. Details must be provided at a scale of 1:20.

(b) Privacy screen louvres must be provided to the terraces of ground floor apartments adjacent to communal open space to provide additional privacy. Details must be provided at a scale of 1:20.

(c) Details of the operability of the proposed glass louvred windows must be provided at a scale of 1: 20. The proposed glass louvred windows must be opaque at ground floor level up to a minimum 1.4m sill height.

(d) The privacy louvre screening to the balconies of apartments 1.10, 2.10, 3.10 should be reduced in size so that they extend halfway across the face of the balcony. The orientation and spacing between the fixed privacy louvre slats should be designed to maximise natural light and ventilation to the apartment. The privacy screening details must be provided at a scale of 1:20.

(e) The boundary fence height along the south-western boundary should be reduced in height by approximately 300mm to be 1.8m measured from the adjoining floor level of the neighbouring site.

(f) Architectural Plans are to indicate pier and beam construction within the TPZ of Tree 5 regarding building footings and boundary fencing.

(g) Provide design amendments to maximise soil volume available to the 3 x Buckinghamia celsissima proposed along the Wentworth Park Road frontage.

The modifications are to be submitted to and approved by Council's Area Planning Manager prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Reason

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

(3) BUILDING HEIGHT

(a) The height of the building must not exceed RL 17.27 (AHD) to the top of the building and RL 16.27 (AHD) to the parapet of the building.

(b) Prior to occupation or use, a Registered Surveyor must provide certification that the height of the building accords with (a) above, to the satisfaction of the Principal Certifier.

Reason

To ensure the constructed development complies with the approved height.

(4) TEMPORARY GROUND ANCHORS, TEMPORARY SHORING AND PERMANENT BASEMENT/RETAINING WALLS AFFECTING THE ROAD RESERVE

For temporary shoring including ground anchors affecting the road reserve, a separate application under Sections 138/139 of the *Roads Act 1993* must be submitted to and approved by Council.

Reason

To ensure that approval under the Roads Act is obtained.

(5) PUBLIC ART

Public art must be installed to the City's satisfaction prior to occupation or use.

(a) The public artwork must be in accordance with Artscape Preliminary Public Art Plan, dated April 2023, the *Sydney DCP 2012*, the *Public Art Policy*, and the *Interim Guidelines: Public art in private developments*.

(b) A Detailed Public Art Plan with final details of the proposed public artwork must be submitted to and approved by Council's Area Planning Manager prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979) for above ground works.

(c) Public artwork must be installed to the City's satisfaction, inspected and approved and the Final Public Art Report submitted and approved by Council's Area Planning Manager prior to occupation or use.

Note: Public Art must be reviewed and endorsed by the City's Public Art Team and/or the Public Art Advisory Panel prior to submission for Council approval.

Further information is available online at http://www.cityofsydney.nsw.gov.au/explore/arts-and-culture/public-art Please contact the Public Art Team at publicartreferrals@cityofsydney.nsw.gov.au for further information.

Reason

To ensure public art is installed to the City's satisfaction.

(6) TREES APPROVED FOR REMOVAL

(a) All trees detailed in Table 1 below are approved for removal. Tree removal must not occur until relevant certification is issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Table 1 – Tree Removal:

Tree No	Species:	Location
3	Leptospermum petersonii (Lemon Scented Tea Tree)	Court yard adjacent to Wentworth Park Rd
4	Callistomen viminalis (Weeping Bottlebrush)	Court yard adjacent to Wentworth Park Rd
6	Celtis sinensis (Chinese Hackberry)	Court yard adjacent to Wentworth Park Rd
17	Acacia floribunda (Gossamer Wattle)	Private court yard - rear
18-19 and 23	Casuarina cunninghamiana (River She-Oak)	Carpark area - rear Western and Southern boundaries
20	Casuarina cunninghamiana (River She-Oak)	Common land - rear western boundary
21	Psidium guajava (Guava)	Private court yard - rear
22	Persea gratissima (Avocado)	Private court yard - rear
24	Syzygium paniculatum (Magenta Cherry)	Private court yard - rear

(b) All tree removal works must be carried out by a qualified Arborist, with a minimum AQF Level 3 and in accordance with SafeWork's Code of Practice – Amenity Tree Industry.

Reason

To identify the trees that can be removed.

(7) TREES THAT MUST BE RETAINED

The existing trees detailed in Table 2 below be retained and protected in accordance with the conditions throughout construction and development.

Table 2 – Tree Retention:

Approval is NOT granted for the removal of the following trees, which Council has determined to be prominent landscape elements.

Tree No	Species:	Location
1-2	Corymbia maculata (Spotted Gum)	Street Tree - Front
5	Platanus x acerifolia (London Plane)	Street Tree - Front
7 and 11-12	Corymbia citriodora (Lemon Scented Gum	Neighbouring property - Northern Boundary
8-10 and 13	Neighbouring property - Northern boundary	Neighbouring property - Northern boundary
14-16	Neighbouring property - Western boundary	Neighbouring property - Western boundary

Reason

To identify the trees that cannot be removed, must be retained and protected.

(8) ASSOCIATED ROADWAY COSTS

All costs associated with the construction of any new road works including kerb and gutter, road pavement, drainage system and footway shall be borne by the developer. The new road works must be designed and constructed in accordance with the City's "Sydney Streets Technical Specification" including amendments and "Sydney Streets Design Code".

Reason

To ensure all roadway works are designed and constructed in accordance with Council requirements.

(9) 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.

(10) 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.

(11) 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 occupation or use.

Reason

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

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

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

Reason

To clarify the scope of the consent.

(13) TELECOMMUNICATIONS PROVISIONS

(a) Appropriate space and access for ducting and cabling is to be provided within the plant area and to each apartment within the building within for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery. The details must be submitted to the certifier prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

(b) A separate DA must be submitted prior to the installation of any external telecommunication apparatus, or the like.

Reason

To ensure the development adequately provides for telecommunications.

PART B – BEFORE THE ISSUE OF RELEVANT CERTIFICATION

(14) ADAPTABLE HOUSING

Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), information from an appropriately qualified access consultant is to be submitted to the Certifier:

(a) Confirming that the required number of residential units are able to be adapted for people with a disability in accordance with the *Building Code of Australia.*

(b) Demonstrating (in a checklist) compliance with Australian Standard AS4299.

Reason

To ensure the provision of adaptable housing.

(15) BASIX CERTIFICATE – DETAILS TO BE LODGED

A copy of the required completed BASIX certificate accepted as part of this Development Consent with respect to the proposed residential building works, must be lodged with an application for relevant certification (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979) and the items nominated as part of the subject BASIX certificate must be specified on the plans submitted for certification (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979). – See Note.

IMPORTANT NOTE:

Any requirement detailed in the accompanying BASIX Certificate, MUST be included as a specific notation or inclusion on any future certification plans and specification in accordance with Part 3 of Schedule 1 of the EP&A Regulation, 2021.

Reason

To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under clause 75 EP&A Regulation, 2021).

(16) EXTERNAL WALLS AND CLADDING FLAMMABILITY

The external walls of the building including attachments must comply with the relevant requirements of the *Building Code of Australia*. Prior to the issue relevant certification (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979) and prior to occupation or use the Certifier and the Principal Certifier must:

(a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the BCA; and

(b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the BCA as proposed and as built.

Reason

To ensure the external walls and cladding comply with relevant requirements.

(17) INSTALLATION OF ARTWORK AND IMAGES ON SCAFFOLDING (DEMOLITION / CONSTRUCTION WRAPS)

(a) Where scaffolding is to be installed to undertake the proposed development an approved artwork / historic image installation must be provided on the scaffolding system to screen the development from the public place, minimise adverse visual impacts on the locality and add visual and public art in the streetscape.

(b) The artwork installation must be printed, installed and maintained in accordance with Council's *Guidelines for Hoardings and Scaffolding*. Details of the proposed installation must be submitted to and approved by Council prior to any certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979) or work commencing.

Note: The scaffolding system on which a required artwork wrap is to be installed must be designed to safely and adequately accommodate and support the wrap mesh material on which the artwork is printed/displayed. This includes designing the scaffold to address potential increased wind loads that may be encountered in the locality.

Reason

To minimise adverse visual impacts on the locality.

(18) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

(a) A Construction Traffic Management Plan must be submitted to and approved by Council prior to any certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

(b) 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.

(19) LETTERBOXES

(a) Details of the location and design of all letterboxes are to be submitted to and approved by Council's Area Planning Manager prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

(b) Letterboxes are to be discreetly located, must not obstruct and/or dominate the public way and must be of a type and specification that minimises opportunities for mail theft.

(c) Where possible, consideration should be given to locating letterboxes within secure building lobbies.

Note: The applicant is strongly advised to contact Australia Post to discuss how the letterboxes within the lobby will be accessed.

Reason

To ensure letterboxes are located in an appropriate location on the site to prevent mail theft.

(20) MATERIALS AND SAMPLES BOARD – MAJOR DEVELOPMENT

A physical material sample board which specifies all proposed materials, metal types, finishes and colours, (including fencing, visible rainwater goods and services) keyed to each building elevation must be submitted to and approved by Council's Area Planning Manager prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979). The materials and samples board must not include generic material or colour descriptions or use terminology such as 'or similar'.

Reason

To require the submission of a materials and samples board following assessment of the development.

(21) REFLECTIVITY

Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979) the Certifier must ensure that the visible light reflectivity from building materials used on the facade of the building does not exceed 20%.

Reason

To ensure the development does not result in adverse reflectivity impacts and to protect the amenity of the public domain.

(22) COMPLIANCE WITH THE ACOUSTIC REPORT PRIOR TO RELEVANT CERTIFICATION

(a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by Pulse White Noise Acoustics dated 13 October 2022 Re Council reference TRIM 2023/046532 must be implemented in the development prior to the commencement of its use.

(b) Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), the final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the DA Acoustic Report in (a) above, with reference to relevant documentation. This must be done by a Suitably Qualified Acoustic Consultant* (see definition below). This work will be to the satisfaction of the Registered Certifier.

(c) Prior to occupation or use, a Suitably Qualified Acoustic Consultant* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier that the development complies with the requirements set out in the Report and in (a) and (b) above.

Note: Suitably Qualified Acoustic Consultant means a consultant who possesses the qualifications to join the Australian Acoustical Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustical Consultants (grade of member firm).

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

Reason

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

(23) 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 any certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).The Plan must be prepared by a suitably qualified acoustic consultant who is a person who possesses the qualifications to join the Australian Acoustic Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustic Consultants (grade of member firm).The plan must include but not be limited to the following:-

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

(b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.

(c) A representative background noise measurement ($L_{A90,\ 15\ minute}$) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.

(d) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.

(e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within C'ty'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.

(24) FLOOR TO CEILING HEIGHT

Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), the Registered Certifier must ensure that all living rooms and bedrooms in sole occupancy units must have a minimum finished floor to ceiling height of not less than 2.7 metres.

Reason

To ensure an adequate minimum floor to ceiling height to provide an acceptable level of amenity.

(25) BICYCLE PARKING

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

Bicycle Parking Type	Number	Requirements
Residential	44	Spaces must be a class 2 bicycle parking
Residential visitor	6	Spaces must be Class 3 bicycle rails

Notes:

(i) The multi-tier bicycle parking racks should be provided with internal spacing of 500mm. Alternatively, dynamic multi-tier bicycle parking racks can be provided with internal spacing of 400mm in compliance with requirements stated in AS 2890.3, Section 3.3.

(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 Certifier prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Reason

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

(26) CONSOLIDATION PLAN – REGISTRATION PRIOR TO ANY DEMOLITION

Prior to demolition or any certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), a Consolidation 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 Consolidation Plan must be registered with the office of NSW Land Registry Services (NSW-LRS) prior to certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979). A title for the new lot must be provided to the Certifier prior to certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Advisory note: The Consolidation Plan may be lodged directly with NSW-LRS and does not require council approval.

Reason

To ensure the boundaries are surveyed and subjected to the plan examination process at NSW-LRS.

(27) CERTIFICATION BY ARCHITECT – PRIOR TO CONSTRUCTION

Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), written certification by the architect must be provided to the Principal Certifier, confirming that the building will fit within the registered boundaries of the Consolidation Plan. The building must be sufficiently set back to ensure that no component of the roof, guttering, or downpipes encroach upon or overhang the side boundaries or road reserve.

Reason

To minimise the risk of encroachment and provide allowance for construction tolerances.

(28) SITE AUDIT STATEMENT

Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), a Section A Site Audit Statement must be obtained from a NSW Environment Protection Authority accredited Site Auditor and submitted to the Council's Area Planning Manager at email address:-

hbapplications@cityofsydney.nsw.gov.au

The Site Audit Statement must confirm that the site has been remediated in accordance with the approved Remedial Action Plan and clearly state that site is suitable for the proposed use.

(a) In circumstances where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council, these must be reviewed and must be approved by the Council's Health and Building Unit in writing through the Area Planning Manager before the Site Audit Statement is issued.

(b) In circumstances where the Site Audit Statement conditions (if applicable) are not consistent with the consent, the development must not proceed until the inconsistency has been resolved to the satisfaction of Council (such as via a S4.55 modification of the consent pursuant to the provisions of the *Environmental Planning & Assessment Act 1979*).

(c) **No Occupation or use it to occur** unless a Site Audit Statement has been submitted to and approved by Council in accordance with this condition.

Reason

To ensure that the site is appropriately remediated.

(29) LANDSCAPING OF THE SITE

(a) The Landscape plans Issue C prepared by Turf Design Studio dated 10 November 2023 are not approved. A detailed landscape design including plans and details drawn to scale, and technical specification, by a registered landscape architect, must be submitted to and approved by Council's Area Planning Manager prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979). These documents must include:

(i) An amended design to include:

a. Provide design amendments to maximise soil volume available to the 3 x Buckinghamia celsissima proposed along the Wentworth Park Road frontage.

b. The landscape design for the 2 metres width directly adjacent to the full extent of the south-western boundary is to be designed so that there are no obstructions that prevent the maintenance and repair of the adjacent retaining wall. Proposed trees in this location are to be relocated.

c. A 2 metre setback along the full extent of the south-western boundary is required for maintenance and repair of the adjacent retaining wall. The landscape design is to be amended so that there are no obstructions that prevent access. Proposed trees are to be relocated beyond the 2 metre setback so that tree roots do not destabilise the wall.

(ii) Location of existing and proposed planting on the site including existing and proposed trees, planting in natural ground, and planting on structure.

(iii) Location and details of existing and proposed structures on the site including, but not limited to, paving, walls, services, furniture, shade structures, lighting and other features.

(iv) Details of earthworks and soil depths including finished levels and any mounding. The minimum soil depths for planting on structure must be 1000mm for trees, 450mm for shrubs and 200mm for groundcovers, excluding mulch and drainage layers.

(v) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.

(vi) Details of drainage, waterproofing and watering systems.

(vii) Landscape maintenance plan. This plan is to be complied with during occupation of the property.

(b) All landscaping in the approved plan is to be complete prior to occupation or use.

Reason

To ensure the development is supported by a good quality, buildable landscape scheme that meets the City's controls.

(30) LANDSCAPE PLAN FOR TREE PROTECTION

The landscape plan must be amended to address the following items:

(a) Indicate pier and beam constructions of the decking within the SRZ/TPZ of Tree 11.

(b) Indicate planting conditions as per Section 3.10 'Final Landscaping within TPAs' as per AIA report by Arterra dated 12/12/2022.

The amended landscape plan is to be submitted to and approved by Council's Area Planning Manager prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Reason

To ensure the that the landscape design does not impact upon existing trees.

(31) INACCESSIBLE GREEN ROOFS

(a) A detailed green roof design including plans and details drawn to scale, and technical specification, by a registered landscape architect, must be submitted to and approved by Council's Area Planning Manager prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979). These documents must include:

(i) Location and details of existing and proposed services, walls, fixings and other structural elements that may interrupt waterproofing, including cross-sectional details of all components.

(ii) Engineers report confirming structural capacity of building for proposed green roof loads.

(iii) Details of soil types and depth including any mounding.

(iv) Details of drainage and irrigation systems, including overflow provisions and water retention cells in the drainage layer.

(v) Planting details, and location, numbers, type and supply size of plant species, with reference to Australian Standards and preference for drought resistant species that contribute to habitat creation and biodiversity.

(vi) Green roof maintenance plan. This plan is to be complied with during occupation of the property, and must include any relevant maintenance methodology for safe working at height such as access requirements, location of any anchor points, gates, and transport of materials and green waste.

(vii) A plan outlining the intended strategy for decommissioning if planting works fail. This is to ensure green roof maintained is throughout its life.

(b) Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), structural and waterproofing certifications for the green roof are to be submitted to and approved by the Principal Certifying Authority.

(c) All landscaping in the approved plan must be complete prior to occupation or use.

(d) Inaccessible green roofs must remain inaccessible for the lifetime of the property.

Reason

To ensure that the inaccessible green roof is designed to accommodate suitable landscaping and to ensure that adequate maintenance procedures are put in place.

(32) SITE SUPERVISION AND REPORTING

(a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone of any tree listed for retention. The Arborist must certify compliance with each key milestone detailed below:

(i) The installation of tree protection measures prior to the commencement of any construction works;

(ii) During demolition of any ground surface materials (pavers, concrete, grass etc.) within the Tree Protection Zone (TPZ) of any tree to be retained;

(iii) During construction of the specify structure/deck/concrete slab etc);

(iv) During any excavation and trenching within the TPZ which has been approved by Council;

(v) During any Landscape works within the TPZ which has been approved by Council.

(b) An Arboricultural Compliance Report which includes photographic evidence and provides details on the health and structure of tree/s must be submitted to and acknowledged by Council's Area Planning Manager at each hold point listed below:

(i) Certification that tree protection measures have been installed in accordance with these consent conditions;

(ii) Certification of compliance with each key milestone listed above within 48 hours of completion;

(iii) Monthly reporting for the duration of construction and development works within the site;

(iv) Details of any other works undertaken on any tree to be retained or any works within the TPZ which has been approved by Council.

(c) A final compliance report must be submitted to and approved by Council's Area Planning Manager prior to occupation or use.

Reason

To ensure the protection and ongoing health of trees on the site.

(33) TREE BOND

(a) A $60,000 bond for trees numbered 1, 2 and 5 shall be lodged with Council to ensure the retention, protection of the tree/s and adaptation to the altered environment is achieved.

(b) The applicant shall lodge an unconditional bond with Council prior to certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

(c) The applicant shall be responsible for the health and condition of trees numbered 1, 2 and 5 for the duration of the works. In the event that at completion of the works, the City's Tree Management Officer determines that the existing trees have been damaged/destroyed (by activities associated with any Development Application related to the subject site) to a value in excess of the retained bond the applicant shall lodge the excess to Council and to an amount determined by Council's Tree Management Officer.

(d) The bond amount will be retained for a minimum period of 12 months from the date of occupation. At this time, a further inspection will be undertaken by the Consulting Arborist engaged throughout the demolition/construction phases of the development. The Consulting Arborist is to submit an Arboricultural Report to Council at the expiry of the bond period and prior to the bond being refunded. If the report indicates that the tree/s require remedial works, the City's Tree Management Officer will assess the recommendations and determine any works prior to their execution by the Consulting Arborist.

(e) The following formula will be used for the retention of all or part of the tree bond/s:-

(i) An initial breach of any tree protection condition – 20% of total bond for each tree;

(ii) A second of continuing breach of any tree protection condition – 40% of total bond for each tree;

(iii) If after 40% of the bond is retained, further breaches of the tree protection conditions occur, Council may instigate legal proceedings for the cessation of all works on the site; and

(f) Death of any protected trees due to non-compliance with the tree protection conditions – Total 100% of total bond for particular tree/s and possible legal action by Council.

(34) DESIGN FOR ENVIRONMENTAL PERFORMANCE

(a) Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), the Certifier must be satisfied that those matters listed in the following sections of the approved Design for Environmental Performance report prepared by Yvonne Cai dated Friday, March 31 2023 (Council Ref: 2023/183705) are incorporated into the relevant construction plans and accompanying documentation:

(i) Section 3 – BASIX

A copy of the required completed BASIX certificate(s) accepted as part of this consent must be lodged with an application for certification and the items nominated as part of the subject BASIX certificate(s) must be specified on the plans submitted with the application for certification (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Note: Any requirement detailed in the accompanying BASIX Certificate must be included as a specific notation or inclusion on any future certification plans and specification in accordance with Part 3 of Schedule 1 of the EP&A Regulation, 2000.

(ii) Section 4 – Energy Efficiency and Greenhouse Gas Abatement

(iii) Section 5 – Passive Design for Thermal Performance – Building Envelope Design

(iv) Section 6 – On site Renewable Energy Generation and Storage

(v) Section 7 – Design for Resilience to Climate Change

(vi) Section 8 – Designing for mains potable water savings and water efficiency

(vii) Section 9 – Storm water quality

(b) Changes to any commitments as listed in the approved Design for Environmental Performance report must be submitted to and approved by Council's Area Planning Manager prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Reason

To ensure the environmental performance of the development.

(35) PLAN MARKINGS

Before relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), plan markings and annotations of for construction plans are to be updated and identify glazing U-Value and Solar Heat Gain Coefficient (SHGC) requirements.

Reason

Consolidation of sustainability requirement reporting.

(36) 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 Certifier prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

(c) Prior to occupation or use 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 Certifier.

Reason

To ensure the ventilation complies with relevant standards.

(37) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL

(a) The Operational Waste and Recycling Management Plan accompanying this Development Application has been approved by this consent (Reference 2023/046543).

(b) A Construction and Demolition Waste and Recycling Management Plan, is to be submitted to and approved by Council's Area Planning Manager prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979). The plan must comply with the Council's *Guidelines for Waste Management in New Developments 2018*.

(c) All nominated waste and recycling storage areas must be constructed to meet the relevant conditions required by Council's *Guidelines for Waste Management in New Developments 2018.*

UPON COMPLETION OF THE DEVELOPMENT

(d) Prior to occupation or use, whichever is earlier, the Principal Certifier must receive Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

Reason

To ensure that waste and recycling is appropriately managed.

(38) PUBLIC DOMAIN DAMAGE BOND

(a) A Public Domain Damage Deposit calculated on the basis of 216 square metres of concrete along Wentworth Park Road and Cardigan Street site frontages must be lodged with Council in accordance with the City of Sydney's adopted Schedule of 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 demolition or certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), 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.

Reason

To allow for the appropriate management and rectification of damage to the public domain.

(39) PUBLIC DOMAIN DAMAGE BOND FOR RETAINING WALL

(a) A Public Domain Damage Deposit for the retaining wall along the rear boundary is to be calculated based on the area of 3.50m (height) x 45.0m (length) x market value per square metre determined at the time of lodgement must be lodged with the Council.

(b) The deposit must be provided as security for repairing any damage to the retaining wall and any damage to the public domain in the vicinity of the wall due to demolition, excavation and construction works.

(c) The City's Public Domain Unit must be contacted to determine the deposit amount prior to lodgement. The deposit must be lodged with the City prior to an approval for demolition being granted or certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), whichever is earlier.

(d) A geotechnical report of the structural condition of the retaining wall must be provided to the City for review and acceptance prior to the issue of any certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

(e) A new geotechnical report of the structural condition of the retaining wall must be provided to the City for review and acceptance after all works are completed on-site and prior to any occupation or use.

(f) All rectification of damage to the retaining wall must be completed to the City's standards, and a Certificate provided by an experienced Geotechnical/Civil Structural Engineer prior to any occupation or use.

(g) The bond in this condition will be retained in full for the duration of the specified Defects Liability Period.

Reason

To allow for the appropriate risk management and rectification of damage to the public domain.

(40) PUBLIC DOMAIN CONCEPT PLAN

A public domain concept plan, showing all the site frontages and extending a minimum of 5m past the boundary and to the road centreline, including Bellevue Street, must be prepared in accordance with the City's *Public Domain Manual* and *Sydney Streets* Code. It must be submitted to and approved by the City's Public Domain Unit prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979) for the development other than for demolition or excavation.

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

Reason

To ensure public domain works comply with Council's requirements.

(41) PUBLIC DOMAIN LEVELS AND GRADIENTS - MAJOR

Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), 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: Public Domain Levels and Gradient plans are to be included with the Public Domain Plan – Detailed Documentation for Construction condition submission.

Reason

To ensure public domain levels and gradients comply with Council's requirements.

(42) STORMWATER DRAINAGE DESIGN

Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979) a detailed stormwater management plan prepared by suitable qualified and experienced professional must be submitted to and approved by the City's Public Domain Unit and must include:

(a) Council's Sydney Streets Technical Specifications, Part A4 Drainage Design;

(b) Council's Sydney Streets Technical Specifications, Standard Drawings;

(c) Council's Sydney Streets Technical Specifications, Part B10: Stormwater Drainage Construction;

(d) Council's Stormwater Drainage Manual; and

(e) All relevant Australian Standards.

This information is available for download from the City's website at https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works.

Note: A Deed of Agreement (Stormwater Deed) for all proposed connections to the City's drainage system, and a Positive Covenant for all OSD systems, if any, will be required prior to occupation or use.

Reason

To ensure stormwater drainage design complies with Council's requirements.

(43) STORMWATER QUALITY ASSESSMENT

The development must comply with Stormwater Management Report/Rev 02, prepared by Northrop (ref 213305_SW01), dated 11 August 2023, and accepted with this development application.

Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), other than demolition, a stormwater quality assessment report and design certification report prepared by a suitably qualified practitioner engineer (NPER) demonstrating compliance with approved music link targets and parameters must be submitted to and approved by the City's Public Domain Unit.

The report must include a response to all stormwater quality improvement devices structural integrity, treatment train and their treatment properties demonstrating compliance with the approved MUSIC link reports.

Reason

To ensure appropriate stormwater quality on the site.

(44) FLOOD PLANNING LEVELS

The development must be constructed to comply with the recommended flood planning levels indicated in Table 1 - Flood Levels & Depth and FPL summary at the site, of the report titled 82 Wentworth Park Road Glebe - Flood Assessment Report (ref 210092), prepared by GRC Hydro, dated 5 May 2023.

Details must be submitted to the Certifier prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979) demonstrating that the development will comply with the recommended flood planning levels.

Reason

To ensure the development complies with the recommended flood planning levels.

(45) PUBLIC DOMAIN LIGHTING UPGRADE

Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979) for excavation, civil construction, drainage or building work (whichever is earlier), a concept Public Domain Lighting Upgrade Plan for pedestrian and street lighting in the public domain must be submitted to and approved by City's Public Domain Unit. The Lighting Plan must be prepared in accordance with the *Sydney Streets Technical Specifications* A5 and B8, *Sydney Lights Design Code* and *Public Domain Manual*. This information is available for download from the City's website at https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works.

The lighting upgrade plan must cover all adjacent street frontages, as indicated below and shall be designed to include the following requirements:

(a) Wentworth Park Road (between the railway bridge on the north of site to Ausgrid light LE11007):

(i) Lighting compliance with requirements of AS1158 under Category V3 on the roadway and PP1 on the footways (both sides) is required.

(ii) If applicable, upgrade Ausgrid street lighting using network standard LED luminaires. Consider installing suitable glareshields to avoid glare issues for neighbouring properties as needed.

(b) Cardigan Street (along the development site on Cardigan Street/Bellevue Lane):

(i) Lighting compliance of AS1158 Category PR1 is required.

(ii) Consider adding a suitable light on existing Ausgrid distribution pole on Cardigan St, complete with suitable glareshields to avoid glare issues for neighbouring properties as needed.

(iii) To achieve compliance, COS standard wall mount lights may also be supplied and installed.

(iv) Wall mount installations must be accessible for maintenance and upgrade by COS-authorised technicians/contractors along the entire length. All cabling shall be installed on the building surface within galvanised steel conduits, MIMS cabling or a similar approved method. Establish an access easement in favour of COS for ongoing maintenance and upgrade of wall-mounted council lighting, if applicable.

(v) Developer should carry out infield electrical discovery and investigation to connect the new wall mount lights to the nearest COS MSB, if there is enough capacity, alternatively supply and install a new COS MSB or PUMS. (Developer must confirm location and final supply arrangement with the City prior to construction).

Note:

(a) Lighting designs certified by a practising lighting engineer must be submitted for council review and approval before certification is issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979) for public domain works.

(b) Lighting designs must consist of two parts, i.e. illumination design and electrical supply reticulation design. COS can only review electrical reticulation design once receiving the final illumination Designs.

(c) Lighting design submission requirements are specified in the “Sydney Streets Technical Specification A5: Street Lighting Design”. For instance:

(i) Lighting plans should show calculation points as per Australian Standards.

(ii) Calculation plot scale should not be smaller than 1:250 @ A1.

(iii) Provide a Calculation Summary table showing all relevant light technical parameters and compliance.

(iv) Highlight all areas of non-compliance (if any)

(d) Comply with the requirements AS/NZS 4282 to ensure no unwanted obtrusive lighting impacts.

(e) All works shall comply with the requirements of all applicable standards and guidelines, including (but not limited to) AS1158, AS4282, and the City of Sydney’s A5, B8 and Ausgrid NS119 documents.

(f) For any new COS light, provide Electrical supply reticulation design and site-specific structural footing designs. Design shall be certified by a practising structural engineer for council review before footing construction. Where applicable, provide relevant design certificates and construction certificates.

Advice on site specific lighting requirements must be obtained from City's Public Domain Unit before proceeding with the preparation of any final lighting design proposals.

Reason

To ensure pedestrian and street lighting in the public domain complies with Council's requirements.

(46) DILAPIDATION REPORT - PUBLIC DOMAIN

Prior to an approval for demolition and preparatory works or certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), whichever is earlier, a photographic recording of the public domain site frontages including CCTV of the adjacent drainage pipeline/s, Bellevue Street and the retaining wall is to be prepared as described in the Public Domain Manual and submitted for approval by Council's Public Domain Unit. The City's *Public Domain Manual* is available for download from the City's website at https://www.cityofsydney.nsw.gov.au/

The submission is to include written confirmation, issued with the authority of both the applicant and the photographer that the City of Sydney is granted a perpetual non-exclusive license to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

Reason

To establish and document the condition of the public domain for comparison as building work progresses and is completed.

(47) TEMPORARY DEWATERING DURING CONSTRUCTION

Prior to discharging any water collected during excavation and construction into the City's stormwater drainage system, approval must be sought from the City's Public Domain Unit. A dewatering management plan must be submitted with an *Application for Temporary Dewatering* available to download on the City's website.

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

Reason

To ensure dewatering is managed appropriately.

(48) GEOTECHNICAL REPORT

Prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979), a Geotechnical/Civil Structural Engineering report must be submitted to and approved by Council's Area Planning Manager and is to address (but not limited to) the following:

(a) the type and extent of substrata formations by the provision of a minimum of four (4) representative bore hole logs which are to provide a full description of all material from ground surface to 1.0 m below the finished basement floor level and include the location and description of any anomalies encountered in the profile. The surface and depth of the bore hole logs must be related to Australian Height Datum;

(b) the appropriate means of excavation/shoring in light of point (a) above and proximity to adjacent property and structures. Potential vibration caused by method of excavation and potential settlements affecting nearby footings/foundations must be discussed and mechanisms to ameliorate any such impacts recommended;

(c) the proposed method to temporarily and permanently support the excavation for the basement adjacent to adjoining property, structures and road reserve if nearby (full support must be provided within the subject site);

(d) the existing groundwater levels in relation to the basement structure, where influenced;

(e) the drawdown effects on adjacent properties (including road reserve and retaining wall), if any, the basement excavation will have on groundwater together with the appropriate construction methods to be utilised in controlling groundwater. Where it is considered there is the potential for the development to create a “dam” for natural groundwater flows, a groundwater drainage system must be designed to transfer groundwater through or under the proposed development without a change in the range of the natural groundwater level fluctuations. Where an impediment to the natural flow path is constructed, artificial drains such as perimeter drains and through drainage may be utilised; and

(f) recommendations to allow the satisfactory implementation of the works. An implementation program is to be prepared along with a suitable monitoring program including control levels for vibration, shoring support, ground level and groundwater level movements during construction. The implementation program is to nominate suitable hold points at the various stages of the works for verification of the design intent before sign-off and before proceeding with subsequent stages.

The geotechnical report must be prepared by an appropriately qualified consulting geotechnical/hydrogeological engineer with previous experience in such investigations and reporting.

It is the responsibility of the consulting geotechnical/hydrological specialist to undertake the appropriate investigations, reporting and specialist recommendations to ensure a reasonable level of protection to adjacent property and structures both during and after construction. The report must contain site-specific geotechnical recommendations and shall specify the necessary hold/inspection points by relevant professionals as appropriate.

The design principles for the geotechnical report are as follows:

(a) no ground settlement or movement is to be induced which is sufficient enough to cause an adverse impact to adjoining property and/or infrastructure;

(b) no changes to the ground water level are to occur as a result of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;

(c) no changes to the ground water level are to occur during the construction of the development that are sufficient enough to cause an adverse impact to the surrounding property and infrastructure;

(d) vibration is to be minimised or eliminated to ensure no adverse impact on the surrounding property and infrastructure occurs, as a result of the construction of the development;

(e) appropriate support and retention systems are to be recommended and suitable designs prepared to allow the proposed development to comply with these Design Principles; and

(f) an adverse impact can be assumed to be crack damage as identified within the relevant Australian Standard for determining such damage.

The professional recommendations, implementation program, monitoring program, mitigation measures and the like contained in the report must be implemented in full during the relevant stages of excavation and construction.

Reason

To ensure the structural integrity of the subject site and adjoining sites during the excavation process

(49) EASEMENT FOR MAINTENANCE AND REPAIR

(a) An easement for maintenance and repair for a width of 2 metres width directly adjacent to the full extent of the south-western boundary is to be prepared and registered on title with terms in accordance with the Conveyancing Act 1919. The easement location along with any additional Terms and conditions are to be submitted to the satisfaction of Council's Area Planning Manager prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

(b) The easement is to be registered on the title prior to occupation or use.

Reason

To allow for the future maintenance and repair of the retaining wall.

(50) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION (MINOR WORKS)

A photographic archival recording of the site, including the existing building, grounds and sandstone embankment, must be prepared prior to the commencement of works on site. This recording must be in accordance with the Heritage NSW publication 'Photographic Recording of Heritage Items using Film or Digital Capture' (2006). The digital copy of the archival record must be provided to Council's Area Planning Manager prior to relevant certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

Reason

To ensure appropriate archival documentation of the building.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

(51) 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 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.

(52) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

(a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 1A Cardigan Street (and any other properties identified by the qualified structural engineer engaged to undertake the report) 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 Certifier and the Council prior to any certification being issued (pursuant to Section 6.28 of the Environmental Planning and Assessment Act 1979).

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 occupation or use.

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.

(53) 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.

(54) 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 Planning Manager.

Reason

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

(55) 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.

(56) SURVEY SETOUT PRIOR TO COMMENCEMENT

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.

Reason

To ensure that the development is located appropriately in relation to the boundaries of the site.

(57) 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 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 materials on the site are identified and appropriately managed.

(58) TREE PROTECTION ZONE

(a) Before the commencement of works, Tree Protection Zone/s (TPZ) must be established around all trees to be retained not less than the distance indicated in the TPZ schedule below.

(b) Tree protection must be installed and maintained in accordance with the Australian Standard 4970 Protection of Trees on Development Sites and with the following schedule:

TPZ Schedule

Tree No.	**Species Name**	**Location**	**Radius (m) From Trunk**
1-2	*Corymbia maculata* (Spotted Gum)	Street Tree - Front	2.0
5	*Platanus x acerifolia (London Plane)*	Street Tree - Front	3.5
7	*Corymbia citriodora* (Lemon Scented Gum	Neighbouring property - Northern Boundary	3.8
8	*Celtis sinensis* (Chinese Hackberry)	Neighbouring property - Northern boundary	5.8
10	*Celtis sinensis* (Chinese Hackberry)	Neighbouring property - Northern boundary	5.4
11	*Corymbia citriodora* (Lemon Scented Gum	Neighbouring property - Northern Boundary	5.0
12	*Corymbia citriodora* (Lemon Scented Gum	Neighbouring property - Northern Boundary	4.8
13	*Celtis sinensis* (Chinese Hackberry)	Neighbouring property - Northern boundary	3.7
14	*Jacaranda mimosifolia* (Jacaranda)	Neighbouring property - Western boundary	6.6

15	*Jacaranda mimosifolia* (Jacaranda)	Neighbouring property - Western boundary	6.0
16	*Jacaranda mimosifolia* (Jacaranda)	Neighbouring property - Western boundary	6.0

Note: Only applies to the TPZ within the subject development site and the public domain.

(c) Ground surface protection must be installed if construction access is required through any TPZ of this condition where hard surface / paving is not existing. The ground protection must be:

(i) Protected with boarding (ie scaffolding board or plywood sheeting or similar material), placed over a layer of mulch to a depth of at least 75mm and geotextile fabric;

(ii) The protective boarding must be left in place for the duration of the construction and development.

(d) The following works must be excluded from within any TPZs:

(i) Excavation except for the localised siting of piers / demolition of the concrete slab

(ii) Soil cut or fill including trenching

(iii) Soil cultivation, disturbance or compaction

(iv) Stockpiling, storage or mixing of materials

(v) The parking (except existing on street parking), storing, washing and repairing of tools, equipment and machinery

(vi) The disposal of liquids and refuelling

(vii) The disposal of building materials

(viii) The siting of offices or sheds

(ix) Any action leading to the impact on tree health or structure

(e) Any trenching works for services / hydraulics / drainage etc must not be undertaken within any TPZ. Alternative installation methods for services, such as directional boring/drilling, or redirection of services must be employed.

(f) All work undertaken within or above the TPZ must be:

(i) Carried out in accordance with a work methodology statement prepared by an Arborist (minimum AQF Level 5) and written approval is obtained from Council's Tree Management Officer before its implementation; and

(ii) Supervised by a Project Arborist (minimum AQF Level 5).

Reason

To ensure the protection and ongoing health of trees.

(59) STREET TREE PRUNING

(a) Pruning requirements for the *Platanus x acerifolia* (London Plane – T05) located on Wentworth Ave in front of unit 8 are to adhere to the Pruning Specification Plan outlined in Section 3.2 Canopy Pruning and Methodology and T03 Tree Canopy Pruning within the Arboricultural Impact Assessment Report by Arterra dated 12 December 2022.

(b) For any further pruning to occur to any street tree surrounding the site including the *Platanus x acerifolia* (London Plane – T05) 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 40mm diameter. Only minor pruning works will be approved by Council.

(c) 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, or removal of, street trees and that such works are carried out in an appropriate manner.

(60) 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.

Reason

To ensure relevant approvals for public domain work are obtained.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

(61) 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.

(62) 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.

(63) 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.

(64) 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.

(65) 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.

(66) SALVAGE, REUSE AND RECYCLING OF TRADITIONAL BUILDING MATERIALS – MINOR DEVELOPMENT

Bricks, corrugated metal sheeting, joinery, doors, windows, and building materials of the existing building that is to be demolished must be salvaged where possible. Salvaged building materials surplus to the project must either be stored on site for future reuse or transferred to an established second hand building material dealer must not be scrapped and are to be carefully salvaged and transferred to an established dealer in second hand heritage building materials for recycling, rather than be scrapped.

Reason

To ensure the salvaging and reuse of building materials.

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

(a) All works conducted on site which form part of this development must be carried out in accordance with the Demolition, Excavation and Construction Management Plan submitted to satisfy conditions of this consent.

(b) Where all such control measures have been implemented and the resultant noise and/ or vibration levels at any sensitive receiver still exceed the council's applicable criteria stated in the Construction Hours/Noise Code 1992 and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit. Approval to vary the authorised noise and vibration levels must be received in writing by the proponent from Council prior to activities being undertaken that exceed sanctioned emission levels.

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

Reason

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

(68) ACCESS DRIVEWAYS TO BE CONSTRUCTED

Approved driveways are to be constructed for all vehicular access to the construction site in accordance with the requirements of Council's "Driveway Specifications" to the satisfaction of Council.

Reason

To allow adequate vehicular access to the site.

(69) 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.

(70) 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.

(71) 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.

(72) LAND REMEDIATION (Where Site Auditor engaged)

The site is to be remediated and validated in accordance with the Remedial Action Plan prepared by Douglas Partners dated 25th January 2023 reference 200842.02.R.004.Rev0 Council reference TRIM 2023/183700 and Letter of Interim Advise prepared by NSW Environment Protection Authority accredited Site Auditor Ian Swane dated 5/04/2023 Council reference TRIM 2023/183699. All remediation work carried out shall be conducted in accordance with the guidelines in force from time to time under the *Contaminated Land Management Act 1997*.

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

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

Reason

To ensure that the site is appropriately remediated.

(73) 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.

(74) 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.

(75) 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.

(76) DISCHARGE OF CONTAMINATED GROUNDWATER

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

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

Reason

To ensure that the discharge of ground water is appropriately managed.

(77) 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 ort other materials are appropriately managed.

(78) COMPLIANCE WITH ACID SULFATE SOILS MANAGEMENT PLAN

All recommendations contained in the Acid Sulphate Soils Management Plan prepared by Douglas Partners reference Project 210116.01 dated December 2022 must be implemented.

Reason

To ensure that Acid Sulphate Soils are appropriately managed.

(79) COMPLIANCE WITH ARBORIST'S REPORT

(a) All recommendations, Tree Protection Plans and Methodology Statements contained in the approved Arboricultural Impact Assessment Report prepared by Arterra, dated 12 December 2022, must be implemented during the demolition, construction and use of the development, including:

(i) Section 3.2 Canopy Pruning and Methodology including Appendix 4.1 Tree Canopy Pruning Plan

(ii) Section 3.0 Tree Management Recommendations

(iii) Appendix 4.1 Tree Protection and Removal Plan

Reason

To ensure that works affecting trees are carried out in an appropriate manner and in accordance with the approved arborist's report.

(80) TREE PROTECTION DURING CONSTRUCTION

All trees that will be affected by the development within the property and on any adjoining land, must be protected in accordance with the Australian Standard 4970 Protection of Trees on Development Sites and as follows:

(a) Stockpiling, storage or mixing of materials, washing of equipment, vehicle parking, disposal of liquids, machinery repairs and refuelling, disposal of building materials such as cement slurry, siting of offices or sheds and the lighting of fires, must not occur within 5 metres of the trunk of any tree to be retained including trees within adjoining properties.

(b) Excavation (except for localised siting of piers) must not occur within the SRZ of any tree (including trees within adjoining properties). If excavation is proposed within this zone, Council's Tree Management Officer must be contacted immediately and the excavation must be carried out in accordance with Council's direction.

(c) Excavations for the footings where they are within the TPZ of any tree (including trees in adjoining properties) must be undertaken using non-destructive methods (such as by hand) to ensure no tree roots greater than 40mm diameter are damaged, pruned or removed.

(d) Footings must be relocated / realigned if any tree root greater than 40mm in diameter is encountered during excavations. A minimum of 150mm clearance must be provided between the tree root and footing.

(e) Tree trunk and major branch protection must be undertaken prior to the commencement of any works. The protection must be installed and certified by a qualified Arborist (minimum AQF 3) and must include:

(i) Tree trunk/s and/or major branches must be protected by wrapped thick carpet underlay or similar padding material to limit damage;

(ii) Timber planks (50mm x 100mm must be placed around tree trunk/s. The timber planks must be spaced at 100mm intervals, and must be fixed against the trunk with tie wire, or strapping. The hessian and timber planks must not be fixed to the tree in any instance, or in any fashion;

(iii) Tree trunk and major branch protection is to remain in place for the duration of construction and development works, and must be removed at the completion of the project.

(f) The consent from Council's Tree Management Officer must be obtained prior to the undertaking of any tree pruning works, including tree roots greater than 40mm in diameter. Only minor pruning works will be approved by Council.

Reason

To ensure the protection and ongoing health of trees.

(81) TREE SENSITIVE EXCAVATION

Structural Root Zone (SRZ) Schedule:

Tree No	**Species**	**Tree Location**	**SRZ (m) from Trunk**
1-2	*Corymbia maculata* (Spotted Gum)	Street Tree - Front	1.5
5	*Platanus x acerifolia (London Plane)*	Street Tree - Front	3.2

7	*Corymbia citriodora* (Lemon Scented Gum	Neighbouring property - Northern Boundary	2.4
8	*Celtis sinensis* (Chinese Hackberry)	Neighbouring property - Northern boundary	2.7
10	*Celtis sinensis* (Chinese Hackberry)	Neighbouring property - Northern boundary	3.0
11	*Corymbia citriodora* (Lemon Scented Gum	Neighbouring property - Northern Boundary	2.5
12	*Corymbia citriodora* (Lemon Scented Gum	Neighbouring property - Northern Boundary	2.5
13	*Celtis sinensis* (Chinese Hackberry)	Neighbouring property - Northern boundary	2.4
14	*Jacaranda mimosifolia* (Jacaranda)	Neighbouring property - Western boundary	2.6
15	*Jacaranda mimosifolia* (Jacaranda)	Neighbouring property - Western boundary	2.5
16	*Jacaranda mimosifolia* (Jacaranda)	Neighbouring property - Western boundary	3.0

(a) Within the SRZ;

(i) Excavation must not occur within the SRZ. If excavation is proposed within this zone, the Council's Tree Management Officer must be contacted immediately and the excavation must be carried out in accordance with Council's direction.

(b) Within the TPZ;

(i) Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or greater than 40mm shall not be severed or damaged unless approved in writing by Council's Tree Management Officer.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

(ii) Excavation methods within the TPZ of Tree 5, Tree 7 and Tree 11 are to adhere to the arborist report recommendations dated 12/12/22 in Section 3.3 - 3.5 and also T-02 Tree Protection and Removal Plan of the report.

(iii) All excavations must be supervised by a Project Arborist (minimum AQF Level 5).

(c) Footings must be relocated / realigned if any tree root greater than 40mm in diameter is encountered during excavations. A minimum of 150mm clearance must be provided between the tree root and footing.

(d) All excavations located within the TPZ must be supervised by a Project qualified Consultant Arborist (minimum AQF Level 5), who holds the Diploma in Horticulture (Arboriculture), Level 5 under the Australian Qualification Framework.

(e) All root pruning must be undertaken in accordance with the Australian Standard 4373 'Pruning of Amenity Trees' and by a qualified Arborist with a minimum AQF level 3.

Reason

To ensure the protection and ongoing health of trees.

(82) TREE PRUNING APPROVED

(a) All pruning must be carried out by a qualified Arborist (AQF Level 3 Arboriculture) and must be in accordance with AS4373-2007 Australian Standard 'Pruning of Amenity Trees'.

(b) Pruning of T15 (Jacaranda mimosifolia), T16 (Jacaranda mimosifolia) and T05 (Platanus x acerifolia) is limited to pruning as per Section 3.2 Canopy Pruning and Methodology within the AIA report by Arterra dated 12 December 2022.

(c) Any pruning works carried out under this consent must not result in the death of the tree, the creation of a hazard or in excessive or inappropriate amounts of pruning, which result in the overall shape of the tree becoming unbalanced and/or unstable.

(d) The consent from Councils Tree Management Officer must be obtained prior to the undertaking of any additional tree pruning works or pruning of any tree roots greater than 40mm in diameter.

Reason

To ensure that pruning works to trees are carried out in an appropriate manner.

(83) 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 [specify] metres of 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.

(84) PROTECTION OF NATIVE WILDLIFE

(a) In the event that wildlife is found during the course of tree removal works, work must stop until a trained wildlife handler attends the site or the animal relocates itself. In regards to tree pruning, works may only proceed if the animals will not come into direct harm.

(b) In the event that the tree has nesting birds or native animals, works must be delayed until after the nesting period has been completed, unless in the event of an emergency.

Reason

To ensure that wildlife is adequately protected during tree removal/pruning works.

(85) PUBLIC DOMAIN WORKS SECURITY BOND

A Public Domain Works Security Bond will be required for the public domain works and for repairing damage that may be caused to the public domain in the vicinity of the site, in accordance with the City of Sydney's adopted fees and charges and the Public Domain Manual.

The 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 being issued for the approval of the Public Domain Plan.

The bond will be retained in full until all public domain works, including rectification of damage to the public domain, are completed to City's standards and approval and the required works-as-executed documentation are 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% will be retained for the duration of the specified Defects Liability Period.

Reason

To ensure public domain works are completed and any damage to the public domain is rectified.

(86) DRAINAGE AND SERVICE PIT LIDS

All existing or proposed drainage and service pit lids throughout the public domain must be to City of Sydney specifications and heel/bicycle safe, slip resistant, infill with material to match surrounding surface, finished flush with the adjacent pavement to avoid trip hazards and be clear of obstructions for easy opening and cleaning. Infill pit lids are to be detailed where specified by Council's Public Domain Officer. Private pits are not permitted within the public domain. All details of pit lids must be shown on the public domain plan and must be approved by the City's Public Domain Unit prior to the issue of an approval for public domain works.

Reason

To ensure drainage and service pit lids within the public domain are appropriately designed and installed.

(87) PUBLIC DOMAIN PLAN DETAILED DOCUMENTATION FOR CONSTRUCTION

A detailed public domain plan and all relevant documentation must be submitted to and approved by 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's specifications and requirements, as outlined in documents such as City of Sydney's *Public Domain Manual*, *Sydney Streets Code, Sydney Street Tree Masterplan, Sydney Lights: Public Domain Design Code and Sydney Streets Technical Specification*. The documentation must be *checked, accurate, and comply with specified requirement*s. 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.

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, details must be submitted for approval with the public domain plan and additional fees may apply.

Reason

To ensure the public domain complies with Council's requirements.

(88) 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 hold point inspections must be adhered to during construction works. Prior to occupation or use, 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.

Reason

To ensure hold points are adhered to during construction works.

(89) STORMWATER DRAINAGE CONNECTION

For approval of a connection into the City of Sydney's drainage system an "*Application for Approval of Stormwater Drainage Connections*" must be submitted to the City, together with an application fee in accordance with the City of Sydney's adopted Schedule of Fees and Charges. This must be approved prior to approval being issued for the construction of public domain work.

Reason

To ensure approval of connection into the Council's drainage system is sought.

(90) PUBLIC DOMAIN LIGHTING RETICULATION

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

The Public Domain Manual and all other relevant documents are available for download from Council's website at https://www.cityofsydney.nsw.gov.au/development/public-domain-works/da-associated-works.

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

Reason

To ensure the public domain lighting documentation complies with Council requirements.

(91) PROTECTION OF THE RETAINING WALL

Activities of the applicant must not affect and/or restrict City's infrastructure operations, including road, drainage, lighting, retaining wall and other present in the vicinity of the site, without prior written agreement between the applicant and the City.

Rectification of damage to the retaining wall must be completed immediately to the City's standards, or as per timing agreed with the City. A Certificate for any rectification works must be provided by an experienced Geotechnical/Civil Structural Engineer prior to any occupation or use.

Reason

To ensure that retaining wall is adequately protected during construction works.

(92) CHECK SURVEY DURING CONSTRUCTION

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 prepared by a registered surveyor 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 or street alignment 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. Encroachments on public roads must be approved by Council's Area Planning Manager, if supported, otherwise the encroachments must be removed.

Reason

To ensure that the building either does not encroach, or alternatively that any encroachments are formalised on title.

(93) USE OF HIGH NOISE EMISSION APPLIANCES / PLANT

(a) The operation of high noise emission appliances, plant and/or machinery such as pile – drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the *City of Sydney Code of Practice for Construction Hours/Noise 199*2 and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* is restricted to the hours of 8.00am to 12.00pm and 1.00pm to 4.30pm Mondays to Fridays and 9.00am to 12.00pm and 1.00pm to 3.00pm Saturdays.

(b) All reasonable and feasible steps must be undertaken to ensure that the work, including demolition, excavation and building complies with the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436- 2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

Reason

To protect the amenity of the surrounding area.

(94) 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.

PART E – BEFORE OCCUPATION

(95) SYDNEY WATER CERTIFICATE

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council or the Principal Certifier prior to occupation or use or subdivision/strata certificate being issued.

Reason

To ensure the requirements of Sydney Water are met.

(96) BASIX

All commitments listed in each relevant BASIX Certificate for the development must be fulfilled prior to occupation or use.

Reason

To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under clause 75 EP&A Regulation 2021).

(97) PRODUCTS BANNED UNDER THE BUILDING PRODUCTS (SAFETY) ACT 2017

(a) No building products that are banned, or products that are subject to a ban if used in a particular way, under the Building Products (Safety) Act 2017 are to be used in the construction of the development approved in this development consent.

(b) Prior to occupation or use, the principal certifier is to confirm that none of the building products used on the building are subject to a building product use ban under the Building Products (Safety) Act 2017 or, if a product is only subject to a ban if used in a particular way that it is not used in any way contrary to the Building Products (Safety) Act 2017.

Reason

To ensure that no banned products are used in the development.

(98) PHYSICAL MODELS

(a) Prior to occupation or use an accurate 1:500 scale model of the development as constructed must be submitted to and approved by Council's Area Planning Manager for the City Model in Town Hall House.

Note:

(i) The models must be constructed in accordance with the Model Specifications available online at http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements Council's modellers must be consulted prior to construction of the model.

(ii) The models are to comply with all of the conditions of the Development Consent.

(iii) The models must be amended to reflect any further modifications to the approval (under Section 4.55 of the *Environmental Planning and Assessment Act*) that affect the external appearance of the building.

Reason

To ensure the provision of an appropriate physical model of the development.

(99) SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION

(a) Prior to occupation or use, an accurate 1:1 electronic CAD model of the completed development must be submitted to and approved by Council's Area Planning Manager for the electronic Visualisation City Model.

(b) The data required to be submitted within the surveyed location must include and identify:

(i) building design above and below ground in accordance with the development consent;

(ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;

(iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.

(c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification. The specification is available online at http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements Council's Modelling staff should be consulted prior to creation of the model. The data is to comply with all of the conditions of the Development Consent.

Reason

To ensure the provision of an appropriate electronic model of the development.

(100) COMPLIANCE WITH HAZARDOUS MATERIALS SURVEY REPORT

All of the recommendations for management and/or removal of hazardous materials on the site, as outlined in the Hazardous Materials Survey Report submitted to satisfy conditions of this consent must be complied with.

Reason

To ensure that hazardous materials on the site are appropriately managed.

(101) REGISTRATION OF COVENANT

Prior to occupation or use, a covenant must be registered on the title of the land and a copy of the title submitted to the Council's Area Planning Manager and the Principal Certifier.

This covenant must be registered on the title of the land binding the owners and future owners with the responsibility for the ongoing maintenance and rehabilitation works required in terms of the encapsulated/remaining contaminated materials, including the discharge or prevention of discharge from any contaminants or for any works subsequently required by the NSW Environment Protection Authority

A copy of the revised certificate of land title recording the covenant must be submitted to Council's Area Planning Manager and the Principal Certifier prior to occupation or use.

Reason

To ensure that contamination is appropriately managed.

(102) SITE AUDIT STATEMENT – ENVIRONMENTAL MANAGEMENT PLAN

Where the ongoing land use suitability and release of the Final (Section A) Site Audit Statement is dependent upon the implementation of an Environmental Management Plan (EMP) in relation to any residual contamination remaining onsite, the EMP must be approved by the Site Auditor and Council's Area Planning Manager prior to the issue of the final Site Audit Statement.

The owner of the land is required to comply with the ongoing obligations of any EMP which form part of the final Site Audit Statement for the site.

A covenant must be registered on the title of the land binding the owners and future owners to be responsible for ongoing maintenance and any future rehabilitation works required in terms of the encapsulated/remaining contaminated materials, including the discharge or prevention of discharge from any contaminants or for any works subsequently required by the NSW Environment Protection Authority

A copy of the revised certificate of land title recording the covenant must be submitted to Council's Area Planning Manager and the Principal Certifier prior to occupation or use.

Reason

To ensure that contamination is appropriately managed.

(103) 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, Public Domain Lighting, the City's *Public Domain Manual,* Stormwater *Drainage Manual, Sydney Lights Design Code* and *Sydney Streets Technical Specification.*

The public domain work must be inspected and a Public Domain Work Letter of Completion Operational Acceptance must be issued by Council's Public Domain Officer prior to occupation or use, whichever is earlier.

Reason

To ensure the public domain works are completed in accordance with the approved documents and Council's requirements.

(104) 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. These works must be certified by a suitably qualified, independent professional. Details of the documentation required for approval will be advised by the City's Public Domain Unit.

Reason

To ensure Council receives works-as-executed documentation for public domain works.

(105) STORMWATER COMPLETION DEED OF AGREEMENT AND POSITIVE COVENANT

Prior to occupation or use:

(a) The Owner is required to enter into a Deed of Agreement (Stormwater Deed) with the City of Sydney and obtain registration of Title of a Positive Covenant for all proposed connections to the City's underground drainage system. The deed and positive covenant will contain terms reasonably required by the City and will be drafted by the City's Legal Services Unit at the cost of the applicant, in accordance with the City's Fees and Charges.

Reason

To protect underground drainage system.

(106) CONSTRUCTED FLOOR LEVELS

A certification report prepared by a suitably qualified practitioner engineer (NPER) must be submitted to the Principal Certifier prior to occupation or use stating that the development has been constructed and the required levels achieved in accordance with the recommendations of the report titled 82 Wentworth Park Road Glebe - Flood Assessment Report (ref 210092), prepared by GRC Hydro, dated 5 May 2023.

Reason

To ensure the development achieves the required floor levels.

(107) FLOOD RISK MANAGEMENT

Prior to occupation or use, a certification report prepared by a suitably qualified practitioner engineer (NPER), for flood risk management measures including flood planning level/s demonstrating compliance with the approved construction plans must be submitted to and be approved by the Principal Certifier. A copy of the report must be provided to Council for record keeping purposes.

Reason

To ensure flood risk management measures are complied with.

(108) SURVEY CERTIFICATE PRIOR TO ISSUE OF OCCUPATION

Prior to occupation or use, 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 and showing offsets in relation to the boundaries of the allotment. Any encroachments of the building including gutters and downpipes over the side boundaries or street alignments 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 occupation or use. Encroachments upon public roads must, if supported, be approved by Council's Area Planning Manager prior to occupation or use.

Reason

To ensure the development does not encroach onto neighbouring properti**PART F – OCCUPATION AND ONGOING USE**

(109) PRIOR TO OCCUPATION OR USE

Prior to occupation or use, certification is to be obtained certifying that the approved building works are suitable for occupation or use in accordance with their classification under the BCA and that Certification has been issued under 6.28 of the EP&A Act 1979 and BCA 2022.

Reason

To ensure the site is authorised for occupation.

(110) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

Reason

To protect neighbouring properties.

(111) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council’s footpath area.

Reason

To protect the public way.

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

(i) The noise level and the background noise level 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 premises.

(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.

(113) WASTE AND RECYCLING COLLECTION

Residential waste storage and collection arrangements must be conducted in accordance with the City's Local Approvals Policy for waste management which requires waste bins to be stored on site at all times. Waste will be collected by a wheel out wheel back arrangement.

Reason

To ensure that waste and recycling is appropriately managed.

(114) MAINTENANCE OF TREES ON SITE

(a) Tree maintenance must be implemented and complied with immediately following the tree planting, and until the tree reaches the required minimum height limit of 6 metres in height and 3 metres canopy width.

(b) The newly planted tree on site must be appropriately maintained on an on-going basis.

(c) Maintenance includes watering, weeding, removal of rubbish from tree bases, pruning (in accordance with AS4373-2007), fertilizing, pest and disease control and any other operations required to maintain a healthy robust tree.

(d) If the newly planted tree fails to establish or does not reach a height of 6 metres and canopy spread width of 3 metres it must be replaced with a tree of comparable qualities and container size of 100 litres.

(e) The conditions of this consent will apply to all replacement trees, including the maintenance and reporting which re-starts at each replanting event.

Reason

To ensure the ongoing maintenance of trees planted on the site.

(115) DEFECTS LIABILITY PERIOD – PUBLIC DOMAIN WORKS

All works to the City's public domain, including rectification of identified defects, are subject to a 12 month defects liability period from the date of Completion. The date of Completion will be nominated by Council on the Public Domain Works – Letter of Completion Operational Acceptance.

Reason

To ensure all works to the City's public domain are protected under a liability period.

RECOMMENDED CONDITIONS FROM EXTERNAL AGENCIES

(116) AUSGRID UNDERGROUND CABLES ARE IN THE VICINITY OF THE DEVELOPMENT

(a) Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.

(b) It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD).

(c) In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:

(i) SafeWork Australia – Excavation Code of Practice.

(ii) Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

(d) The following points should also be taken into consideration:

(i) Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

(ii) Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

(117) AUSGRID OVERHEAD POWERLINES ARE IN THE VICINITY OF THE DEVELOPMENT

(a) The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

(b) Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

(c) The “as constructed” minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website at www.ausgrid.com.au.

(d) It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be relocated in this instance. Any Ausgrid asset relocation works will be at the developer’s cost.

(e) Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances “Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website: www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries

(f) For new connections or to alter the existing electrical connection to the property from the Ausgrid network, the proponent should engage an Accredited Service Provider and submit a connection application to Ausgrid as soon as practicable. Visit the Ausgrid website for further details: https://www.ausgrid.com.au/Connections/Get-connected

Protection of TfNSW Infrastructure and Light Rail OperationsGENERAL

(a) The applicant must comply with all Altrac Light Rail Partnership (Altrac) or any subsequent operator of Sydney Light Rail (Sydney Light Rail Operator) policies, rules and procedures when working in and about the Sydney Light Rail corridor;

(b) The applicant must comply with the requirements of T HR CI 12090 ST Air Space and External Developments version 1.0 and Development Near Rail Corridors and Busy Roads- Interim Guidelines;

(c) Activities of the applicant must not affect and/or restrict Sydney Light Rail operations without prior written agreement between the applicant, Transport for NSW (TfNSW), Altrac, and the Sydney Light Rail Operator, and it is a condition precedent that such written agreement must be obtained no later than two (2) months prior to the activity. Any requests for agreement are to include as a minimum the proposed duration, location, scope of works, and other information as required by the Sydney Light Rail Operator;

(d) The applicant must apply to Altrac and the Sydney Light Rail Operator for any required network shutdowns four (4) months prior to each individual required network shutdown event. Each request for network shutdown must include as a minimum the proposed shutdown dates, duration, location, scope of works, and other information as required by the Sydney Light Rail Operator. The Sydney Light Rail Operator may grant or refuse a request for network shutdown at its discretion;

(e) TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought;

(f) During all stages of the development extreme care shall be taken to prevent any form of pollution entering the light rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the applicant; and

(g) All TfNSW, Altrac and Sydney Light Rail Operator's costs associated with review of plans, designs and legal must be borne by the applicant.

Prior to the Issue of the Crown Certificate

(119) REVIEW AND ENDORSEMENT OF DOCUMENTS

Prior to the issue of the first Crown certificate or any preparatory, demolition or excavation works, whichever occurs first, the applicant should consult with TfNSW, Altrac and the Sydney Light Rail Operator to confirm the timing of each construction certificate and associated documentation and activities prior to the preparation of requested documentation. The applicant should provide the information to TfNSW for review and endorsement. The Principal Certifying Authority (PCA) is not to issue the relevant Crown Certificate until they have received written confirmation from TfNSW that the following conditions have been complied with.

(a) Prior to the issue of the first Crown Certificate, the applicant is to confirm in writing with TfNSW what each Crown Certificate stage will involve;

(b) Prior to the issue of the relevant Crown Certificate, the applicant shall liaise with TfNSW to ascertain its requirements in relation to the protection of TfNSW's infrastructure. The applicant is to submit to TfNSW all relevant documentation as requested by TfNSW and obtain TfNSWs' written endorsement; and

(c) Prior to the issue of the first Crown certificate or any preparatory, demolition or excavation works, whichever occurs first, the following documentation shall be provided for the TfNSW endorsement:

(i) Final geo-technical and structural report / drawings. Geotechnical reports should include any potential impact on the light rail corridor located adjacent to the subject development site, easement and substratum;

(ii) Final construction methodology with construction details pertaining to structural support during excavation or ground penetration. Any temporary components, for example, shoring systems, formwork and falsework, that are located such that their failure has the potential to affect rail infrastructure facilities or operations shall have a minimum service life of 10 years;

(iii) Details of the vibration and movement monitoring system that will be in place before excavation commences;

(iv) A plan showing all craneage and other aerial operations for the development, and the details of crane erection methodology;

(v) Environmental Management Plan and Demolition management plan to demonstrate that dust/debris/hazardous substances would not enter to the light rail corridor during the demolition works as dust/debris would have the potential to damage Sydney Light Rail assets and to cause safety issues for Sydney Light Rail passengers/employees;

(vi) Final cross sectional drawings showing ground surface, rail tracks, sub soil profile, proposed basement excavation and structural design of sub ground support adjacent to the Rail Corridor located adjacent to the subject development site. Cross sectional drawings should also include the accurate RL depths and horizontal distances from assets (tracks, overhead lines, structures and cables) to the nearest point of excavation or ground penetration works. All measurements are to be verified by a Registered Surveyor; and

(vii) Detailed survey plan.

(120) PRE-CONSTRUCTION WORK DILAPIDATION REPORT

A pre-construction work Dilapidation Report of the Sydney Light Rail and its assets shall be prepared by a qualified structural engineer. The dilapidation survey shall be undertaken via a joint site inspection by the representatives of the Sydney Light Rail Operator, TfNSW and the applicant. These dilapidation surveys will establish the extent of existing damage and enable any deterioration during construction to be observed.

(121) ACOUSTIC ASSESSMENT

Prior to the issue of the relevant Crown Certificate, the final acoustic assessment is to be submitted to PCA demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines". All recommendations of the acoustic assessment are to be incorporated in the construction documentation.

(122) ELECTROLYSIS ANALYSIS

Prior to the issue of the relevant Crown Certificate, the applicant is to engage an Electrolysis Consultant to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the PCA with the application for the relevant Crown Certificate.

(123) REFLECTIVITY REPORT

Prior to the issue of the relevant Crown Certificate, the applicant shall design lighting, signs and surfaces with reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor limiting glare and reflectivity to the satisfaction of Altrac, TfNSW and the Sydney Light Rail Operator.

(124) BALCONIES AND WINDOWS

Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that are within 20 metres of, and face, the rail corridor, the development must have measures installed, to the satisfaction of TfNSW (eg awning windows, louvres, enclosed balconies, window restrictors etc) which prevent the throwing of objects onto the rail corridor. The Principal Certifying Authority is not to issue the Crown Certificate until written confirmation has been received from TfNSW confirming that this condition has been satisfied.

(125) CONSULTATION REGIME

Prior to the issue of the relevant Crown Certificate, if required by TfNSW, a detailed regime is to be prepared for consultation with and approval by TfNSW for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by TfNSW.

(126) INSURANCE REQUIREMENTS

Prior to the issue of the relevant Crown Certificate, the applicant must hold current public liability insurance cover for a sum acceptable to TfNSW. TfNSW's standard public liability insurance requirement for this type of development adjacent to a rail corridor is minimum of $250M. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. The applicant is to contact TfNSW to obtain the level of insurance required for this particular proposal. Prior to issuing the relevant Crown Certificate the PCA must witness written proof of this insurance in conjunction with TfNSW's written advice to the applicant on the level of insurance required.

(127) WORKS DEED / AGREEMENTS

Prior to the issue of the first Crown certificate or any preparatory, demolition or excavation works, whichever occurs first, if required by TfNSW, Works Deed (s) between the applicant, TfNSW and/or Altrac and the Sydney Light Rail Operator must be agreed and executed by the parties. These agreements may deal with matters including, but not limited to, the following:

(a) Sydney Light Rail Operational requirements;

(b) Sydney Light Rail access requirements;

(c) Altrac and Sydney Light Rail Operator policies, rules and procedures compliance requirements;

(d) Indemnities and releases;

(e) Security of costs;

(f) Insurance requirements and conditions;

(g) TfNSW, Altrac and the Sydney Light Rail Operator's recovery of costs from the applicant for costs incurred by these parties in relation to the development (e.g. review of designs and reports, legal, shutdown /power outages costs including alternative transport, customer communications, loss of revenue etc) risk assessments and configuration change processes;

(h) Interface coordination between the Sydney Light Rail Operator and the subject development construction works, including safety interface;

(i) Infrastructure Assess Deed Poll and Safety Interface Agreement between the applicant and the Sydney Light Rail Operator must be agreed and executed by the parties. This agreement may deal with matters including, but not limited to, the following:

a. Review of the machinery to be used during excavation/ground penetration / construction works;

b. Endorsement of Risk Assessment/Management Plan and Safe Work Method Statements (SWMS);

c. Endorsement of plans regarding proposed craneage and other aerial operations;

d. Alteration of rail assets such as the OHW along of track and associated hoarding demarcation system, if undertaken by the applicant.

(i) Altrac and the Sydney Light Rail Operator's reviews and impact assessment of the applicant's proposal, engineering design and construction works methodology on Sydney Light Rail Operations and assets;

(j) Attendance and participation in the construction works risk assessment of construction activities to be performed in, above, about, and/or below the Sydney Light Rail Corridor;

(k) Arrangements for shutdowns and Sydney Light Rail restricted operations related costs attributed to the applicant; and

(l) Sydney Light Rail site works access approval and access permit to work.

(128) DURING CONSTRUCTION

(a) Safe Work Method Statement describes the specific hazards identified for the high risk construction work to be undertaken and the control measures shall be in place so the work is carried out safely including machinery to be used/operated especially tower cranes/mobile cranes with associated safety measures to be taken;

(b) The applicant shall provide safe and unimpeded access for Sydney Light Rail patrons traversing to and from the Sydney Light Rail stops at all times;

(c) All piling and excavation works are to be supervised by a geotechnical engineer experienced with such excavation projects;

(d) No rock anchors/bolts (temporary or permanent) are to be installed into the light rail corridor;

(e) No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment unless a physical barrier such as a hoarding or structure provides separation;

(f) During all stages of the development extreme care shall be taken to prevent any form of pollution entering the light rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the applicant;

(g) The applicant must mitigate all noise and vibration to the extent possible and provide vibration monitoring equipment and provide the results to the Sydney Light Rail Operator at intervals required by TfNSW and the Sydney Light Rail Operator, and immediately implement corrective actions in the event that the noise or vibration exceeds acceptable limits;

(h) Rainwater from the roof must not be projected and/or falling into the rail corridor/assets and must be piped down the face of the building which faces the rail corridor. Given the site's location next to the rail property, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from TfNSW and the Sydney Light Rail Operator (or the delegated authority); and

(i) No scaffolding is to be used within 6 horizontal metres of the rail corridor unless prior written approval has been obtained from the Sydney Light Rail Operator and TfNSW and a physical barrier such as a hoarding or structure provides separation. To obtain approval the applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor.

Prior to Occupation

(129) POST-CONSTRUCTION DILAPIDATION REPORT

Prior to Occupation, a post-construction dilapidation survey shall be undertaken via a joint inspection with representatives from TfNSW, Altrac, the Sydney Light Rail Operator and the applicant. The dilapidation survey will be undertaken on the rail infrastructure and property in the vicinity of the project. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report to TfNSW and the Sydney Light Rail Operator will be required unless otherwise notified by TfNSW. The applicant needs to undertake rectification of any damage to the satisfaction of TfNSW and the Sydney Light Rail Operator and if applicable the local council.

(130) REFLECTIVITY REPORT

Prior to Occupation, the applicant shall demonstrate that lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor were installed limiting glare and reflectivity to the satisfaction of TfNSW, Altrac and the Sydney Light Rail Operator.

SCHEDULE 2PRESCRIBED CONDITIONS

The prescribed conditions in accordance with Division 8A of the *Environmental Planning and Assessment Regulation 2021* apply:

Clause 69 Compliance with *National Construction Code (previously known as Building Code of Australia)* and insurance requirements under the *Home Building Act 1989*

Clause 70 Erection of signs

Clause 71 Notification of *Home Building Act 1989* requirements

Clause 72 Conditions relating to entertainment venues

Clause 73 Conditions relating to maximum capacity signage

Clause 74 Conditions relating to shoring and adequacy of adjoining property

Refer to the NSW State legislation for full text of the clauses under Division 2 conditions of development consent of the *Environmental Planning and Assessment Regulation 2021*. This can be accessed at: http://www.legislation.nsw.gov.au

Attachment B

Selected Drawings

SJB Architects



LAHC
82 Wentworth Park Road, Glebe

SJB Architects
Level 2, 490 Crown Street
Surry Hills NSW
2010 Australia
T 61 2 9380 9911
F 61 2 9380 9922

Project Number: 6363
Date: 2023-11-10
Client: LAHC

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1 - Front Elevation - 82 Wentworth Park Road



2 - Corner of Cardigan St and Wentworth Park Road



3 - Rear Elevation - Bellevue Street

Legend

- Boundary Line
- Prevailing wind directions
- Pedestrain Entry
- Trees to be retained
- Trees to be removed
- Existing building extent
- Noise
- Views





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Rev	Date	Revision	By	Chk.
1	2022-05-02	DRAFT Concept	YC	
2	2022-08-19	DRAFT DA	YC	
3	2022-10-07	FOR CLIENT APPROVAL	YC	
4	2022-12-07	DA ISSUE - FOR FINAL COORDINATION	YC	
5	2023-08-10	COUNCIL RFI UPDATE	YC	
6	2023-11-08	RFI - BOUNDARY SETBACK	YC	
7	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

Nominated Architects: Adam Haddow-7188 | John Pradel-7004

Client

Project
LAHC
82 Wentworth Park Road, Glebe

Drawing Name
SITE PLAN & SITE ANALYSIS

Date	Scale	Sheet Size
2023-11-10	As indicated	@ A1
Drawn	Chk.	
Author	Checker	
Job No.	Drawing No.	Revision
6363	DA-0101	/ 7

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F 61 2 9380 9922
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Legend

- Boundary Line
- Existing building to be demolished
- 1:100 Flood Line
- Trees to be retained
- Trees to be removed
- Cut
- Proposed building extent

DEMOLITION - NOTES

- CUT EXISTING FLOOR SLABS FOR NEW EXCAVATIONS, FOR FOOTINGS AND SERVICES.
  REFER ALSO TO STRUCTURAL AND SERVICES DRAWINGS AND DOCUMENTATION FOR EXTENT OF DEMOLITION WORKS.
- DISCONNECT ALL SERVICES PRIOR TO DEMOLITION.
  REFER TO CONSULTANT DRAWINGS AND DOCUMENTATION.
- REFER TO ENG.'S DRAWINGS FOR EXTENT OF UNDERPINNING OF EXISTING FOOTINGS AND WALLS, REMOVAL OF EXISTING BEAMS, COLUMNS, CONCRETE SLABS AND SEQUENCE OF REMOVAL, TEMPORARY PROPPING OF WALLS, BEAMS, COLUMNS, CONCRETE SLABS AND BRICKWORK.
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Nominated Architects: Adam Haddow-7188 | John Pradel-7004

Client

Project
LAHC
82 Wentworth Park Road, Glebe

Drawing Name
DEMOLITION PLAN

Date	Scale	Sheet Size
2023-11-10	As indicated	@ A1

Drawn	Chk.
Author	Checker

Job No.	Drawing No.	Revision
6363	DA-0301	/ 6

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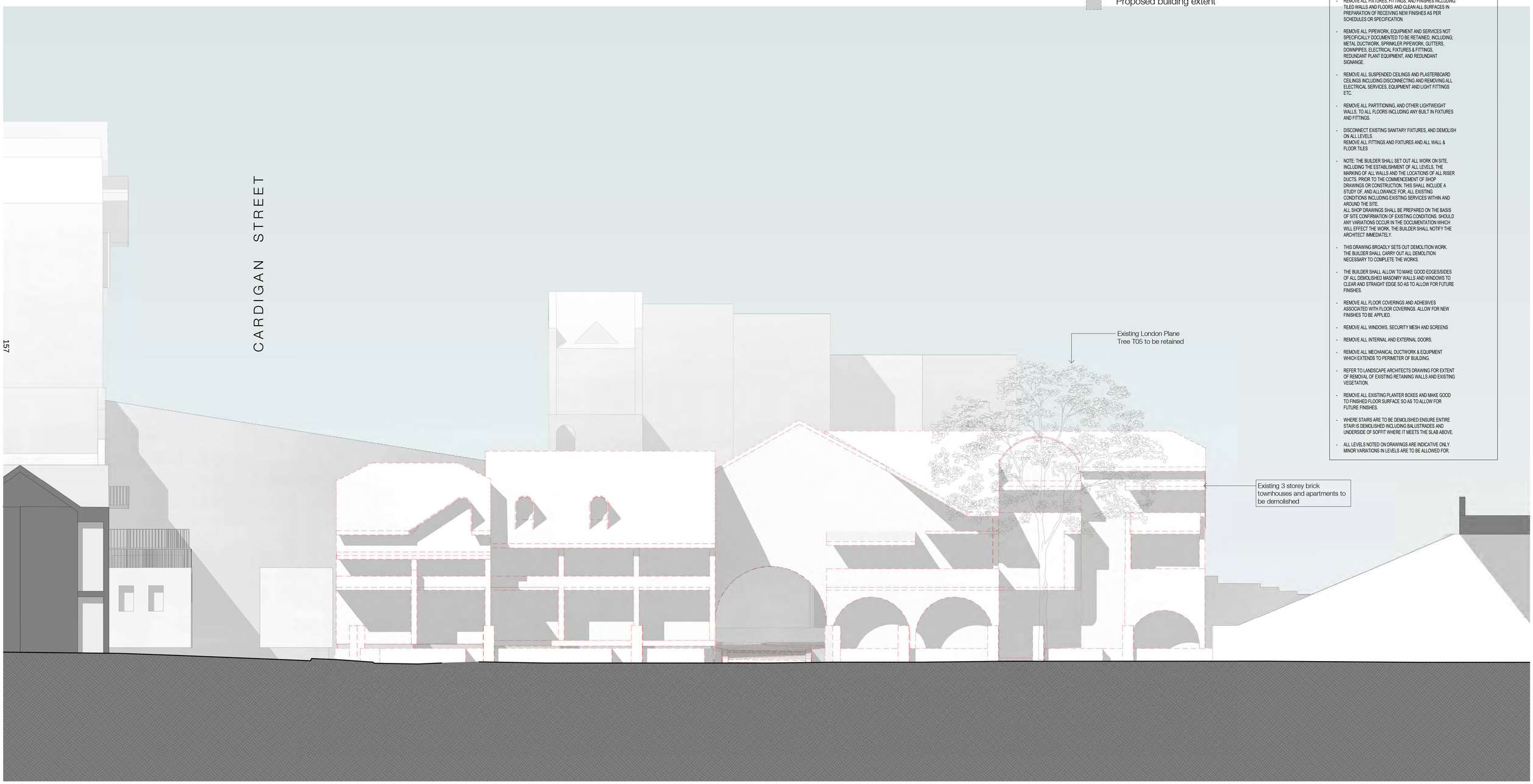
NO CHANGES



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2	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

Nominated Architects: Adam Haddow-7188 | John Pradel-7004

Client

Project
LAHC
82 Wentworth Park Road, Glebe

Drawing Name
DEMOLITION ELEVATION - NORTH

Date	Scale	Sheet Size
2023-11-10	As indicated	@ A1

Drawn	Chk.
Author	Checker

Job No.	Drawing No.	Revision
6363	DA-0302	/ 2

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NO CHANGES



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2	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

Nominated Architects: Adam Haddow-7188 | John Pradel-7004

Client

Project
LAHC
82 Wentworth Park Road, Glebe

Drawing Name
DEMOLITION SECTION A

Date	Scale	Sheet Size
2023-11-10	As indicated	@ A1

Drawn	Chk.
Author	Checker

Job No.	Drawing No.	Revision
6363	DA-0303	/ 2

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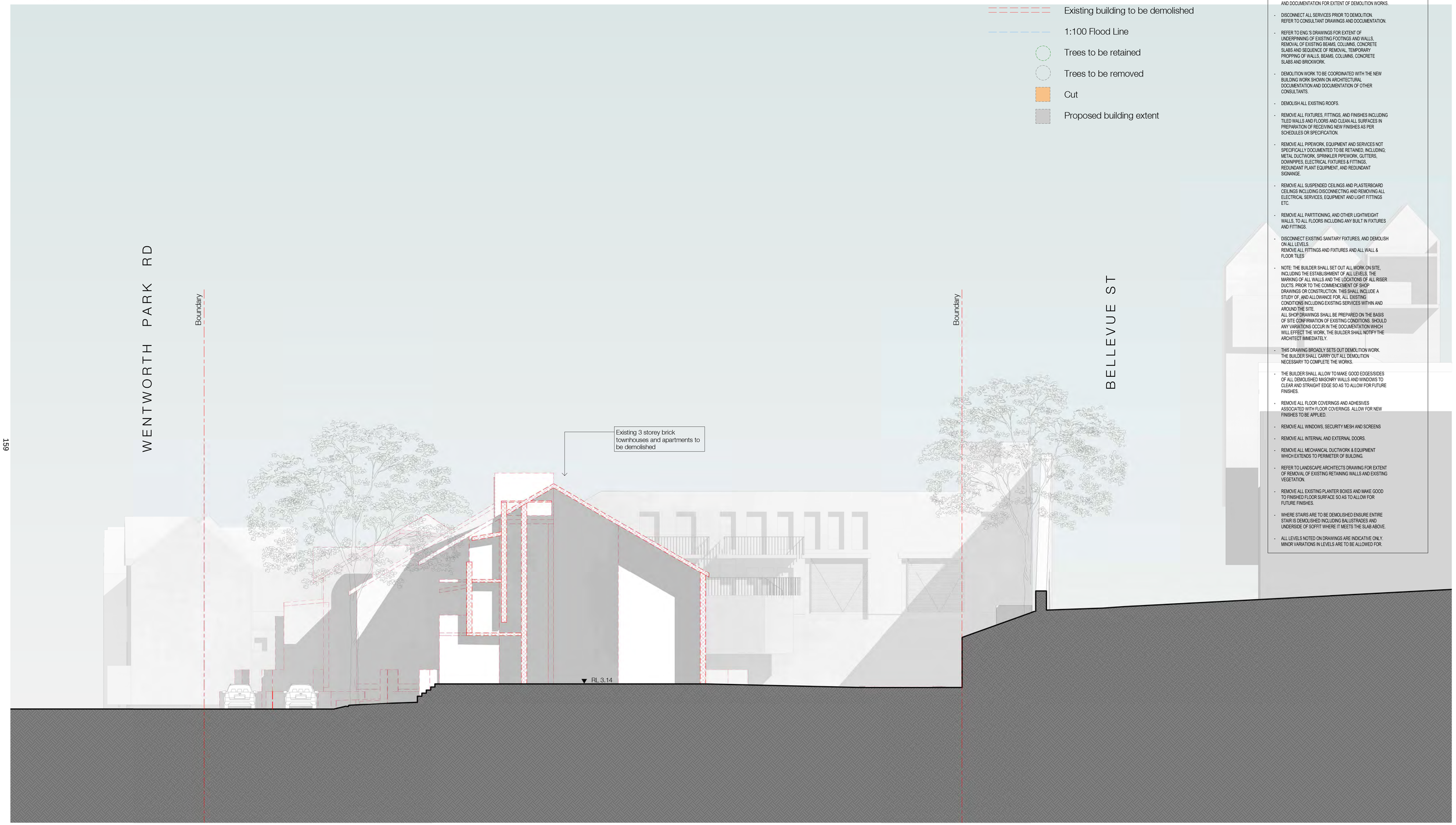

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Nominated Architects: Adam Haddow-7188 | John Pradel-7004

Client

Project
LAHC
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Drawing Name
DEMOLITION SECTION B

Date	Scale	Sheet Size
2023-11-10	As indicated	@ A1

Drawn	Chk.
Author	Checker

Job No.	Drawing No.	Revision
6363	DA-0304	/ 2

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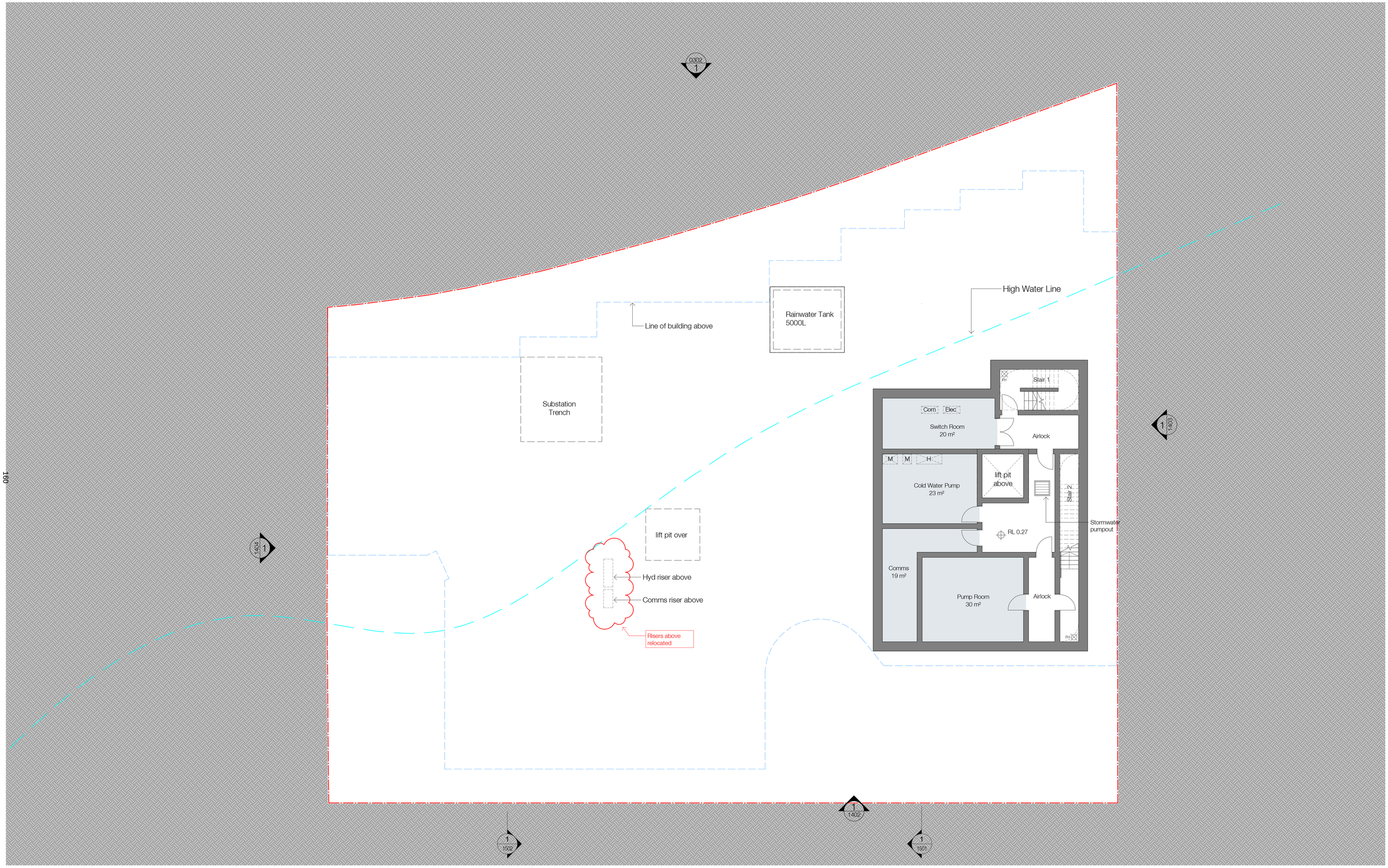

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4	2022-10-07	FOR CLIENT APPROVAL	YC	
5	2022-11-22	CONSULTANT COORDINATION	YC	
6	2023-08-02	UPDATED OPENINGS	YC	
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Client

Class 2 summary
QYUP3BPDEU 13/11/2023
Assessor Akhtar Vaseem
Accreditation No. 101146
Address 82 Wentworth Park Road, Glebe, NSW, 2037
https://www.ihs.com.au/QRCodeLanding?PublicId=QYUP3BPDEU&GroCert=1

Project
LAHC
82 Wentworth Park Road, Glebe

Drawing Name
FLOOR PLAN - Basement

Date	Scale	Sheet Size
2023-11-10	1 : 100	@ A1

Drawn	Chk.
Author	Checker

Job No.	Drawing No.	Revision
6363	DA-1001	/ 8

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wentworth park road

cardigan street

No. 78
2 Storey
Brick Terrace

No. 80
2 Storey
Warehouse

light rail over

161

1401 / 1

1501

1502

1503

1402

1403

1404

1506

Refer to landscape architect's drawings for details

RL 2.07

RL 2.11

RL 2.06

RL 2.19

RL 2.61

RL 2.24

RL 2.36

RL 2.63

1:14 RAMP

1:14 RAMP +300mm

1 Hyd - Cold Water Meter

1 Hyd - Cold Water Meter

6x Visitor bike

Building Entry

RL 2.41

RL 3.27

1:40

1:20

4247

4800

Chamber Substation

Waste Room

RL 2.77

Platform lift

660

Secure Entry

Mailbox

Ground Floor

RL 3.27

G.01
1Bed
54 m²

Terrace
9 m²

F.C.

RL 3.27

Terrace
14 m²

F.C.

B L

G.02
Studio
40 m²

B
L

Bulky Goods
9 m²

1hr Tenbie - Water

GE

240

1800

2000

Store

Lift 1

Bike Store
44 Bikes

Bike store - supply air 0.4m³

1:20 RAMP +300

BE

RL 3.27

Internal ramp removed

Layouts updated and core relocated

Wall shifted west

Communal Open Space
Refer to landscape architect's drawings for details

F.C.

Wintergarden
8 m²

G.05
1Bed
50 m²

Stair 1

H

C

GE

G.06
1Bed
65 m²

Wintergarden
12 m²

F.C.

G.07
Studio
38 m²

F.C.

Terrace
8 m²

window added

Access Passage

2m setback introduced

window added

Low height gate

planter removed

Low height gate

2000

RL 2.97

Communal Open Space
Refer to landscape architect's drawings for details

1m dune zoom
mound up-air 0.5m³

G.03
1Bed
53 m²

F.C.

Terrace
15 m²

L B

G.04
1Bed
52 m²

F.C.

Terrace
14 m²

RL 2.38

RL 2.37

RL 2.31

TOW 2.85

RL 2.55

RL 3.50

TOW 3.80

RL 4.17

TOW 4.38

1990

RL 3.77

FH

M C E

RL 3.27

2000

RL 2.97

M M Hyd

Lift 2

FH

G.08
Studio
39 m²

G.09
Studio
39 m²

G.10
1Bed
50 m²

Terrace
10 m²

F.C.

F.C.

Terrace
10 m²

Terrace
8 m²

F.C.

L

1:100 fall to walkway

300mm high wall above Cardigan St ground line, and balustrade above

Alarm system with flood sensor to be intregrated

LEGEND

FOLDABLE CLOTHESLINE

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Nominated Architects: Adam Haddow-7188 | John Pradel-7004

Rev	Date	Revision	By	Chk.
4	2022-10-07	FOR CLIENT APPROVAL	YC	
5	2022-11-22	CONSULTANT COORDINATION	YC	
6	2022-12-07	DA ISSUE - FOR FINAL COORDINATION	YC	
7	2023-02-01	RL REVISION	YC	
8	2023-03-24	COUNCIL RFIS	YC	
9	2023-08-02	UPDATED OPENINGS	YC	
10	2023-08-10	COUNCIL RFI UPDATE	YC	
11	2023-09-06	UNIT G.02 LAYOUT REVERTED	YC	
12	2023-11-08	RFI - BOUNDARY SETBACK	YC	
13	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

6.8 Average star rating NATIONWIDE HOUSE ENERGY RATING

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Assessor Name: Akhtar Vaseem
Assessor Number: 101146
Business Signature:

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Project
LAHC
82 Wentworth Park Road, Glebe

Drawing Name
FLOOR PLAN - Ground

Date	Scale	Sheet Size
2023-11-10	1 : 100	@ A1

Drawn	Chk.
Author	Checker

Job No.	Drawing No.	Revision
6363	DA-1002	/ 13

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8	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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Drawing Name
FLOOR PLAN - Level 1

Date	Scale	Sheet Size
2023-11-10	1 : 100	@ A1

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Job No.	Drawing No.	Revision
6363	DA-1003	/ 8

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Drawing Name
FLOOR PLAN - Level 2

Date	Scale	Sheet Size
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7	2023-11-08	RFI - BOUNDARY SETBACK	YC	
8	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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Drawing Name
FLOOR PLAN - Level 3

Date	Scale	Sheet Size
2023-11-10	1 : 100	@ A1

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6363	DA-1005	/ 8

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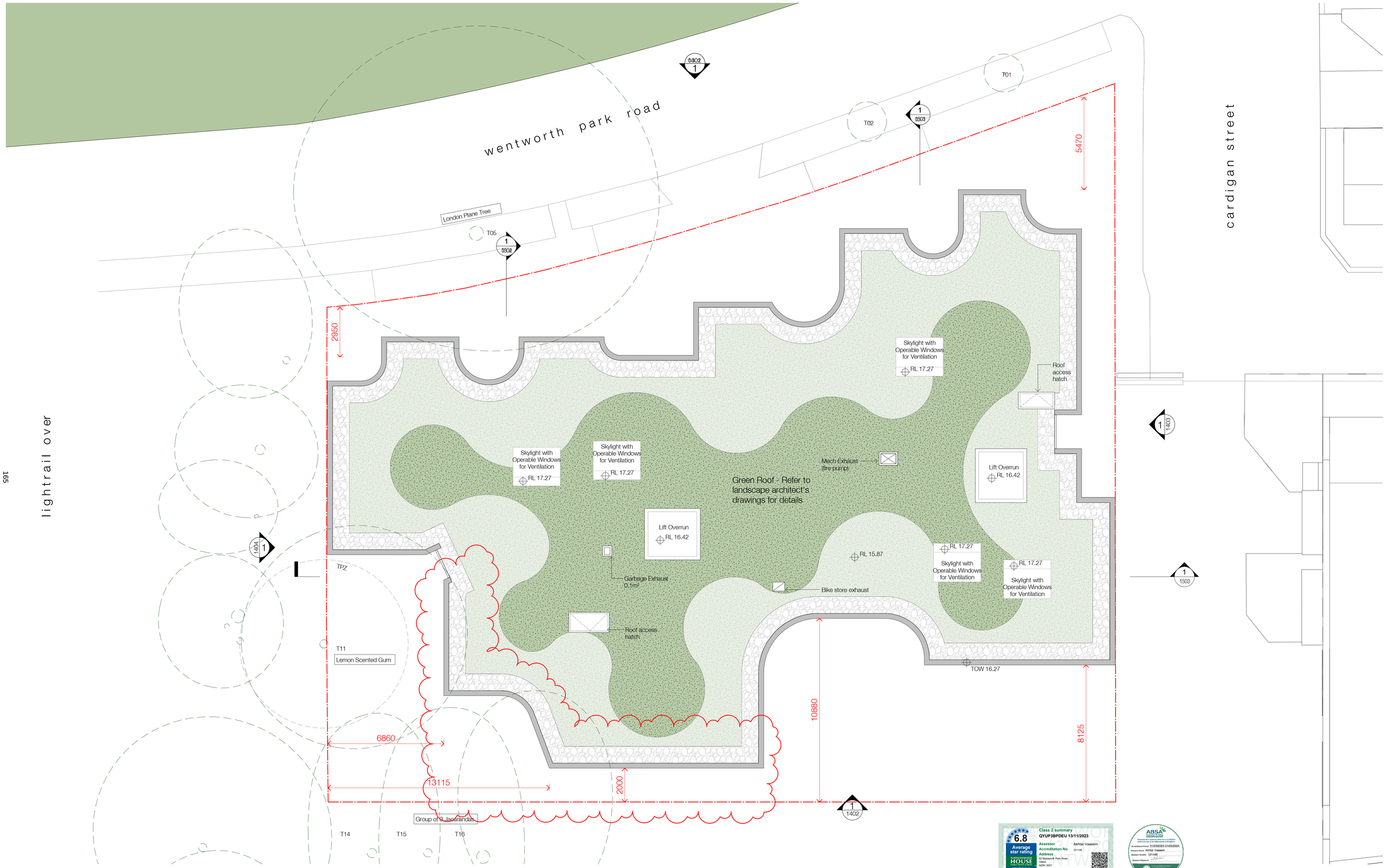

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9	2023-11-08	RFI - BOUNDARY SETBACK	YC	
10	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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Drawing Name
FLOOR PLAN - Roof

Date	Scale	Sheet Size
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7	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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Drawing Name
ELEVATION - North

Date: 2023-11-10
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Job No.: 6363
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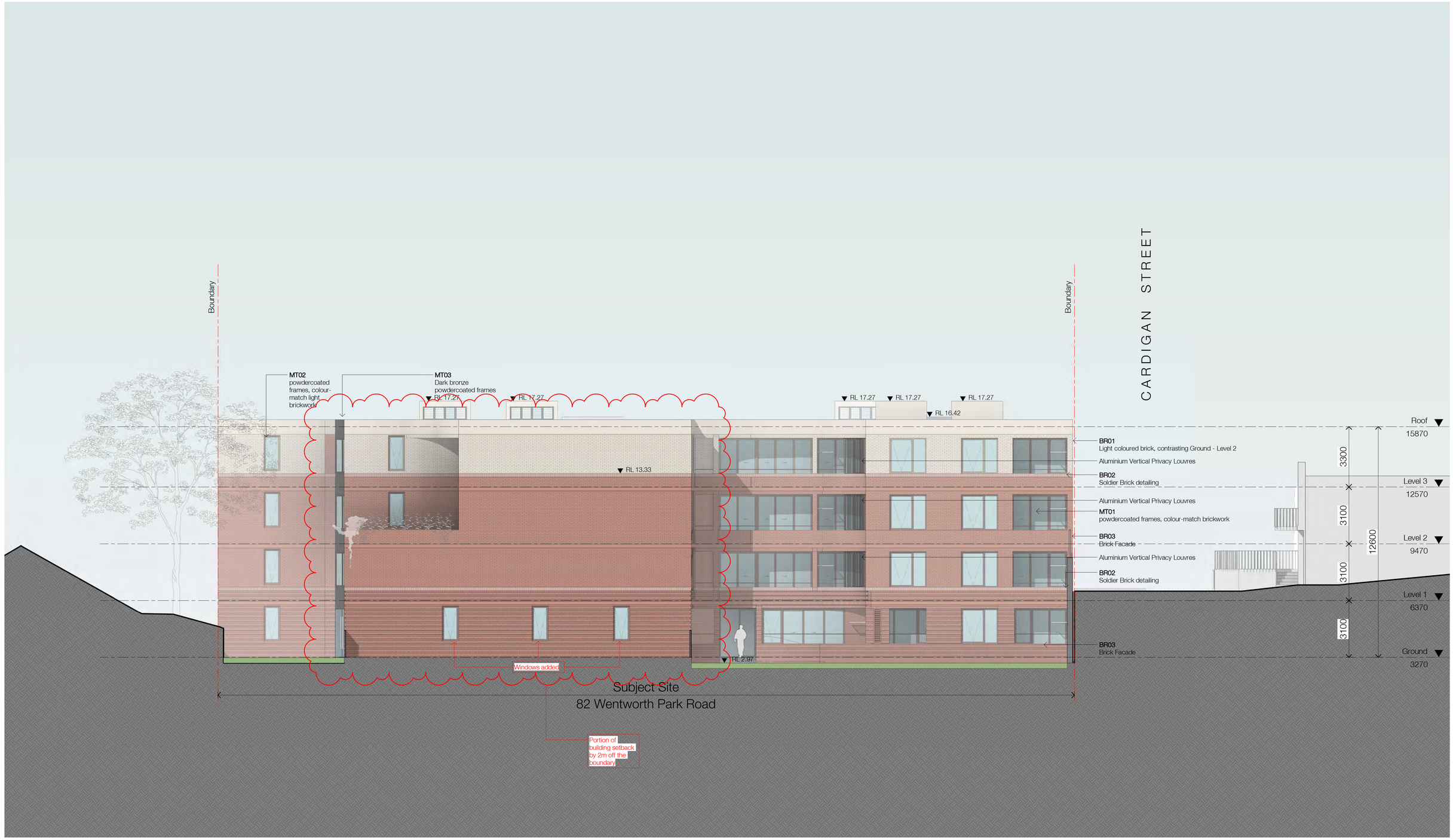

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Drawing Name
ELEVATION - South

Date	Scale	Sheet Size
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6363	DA-1402	/ 7

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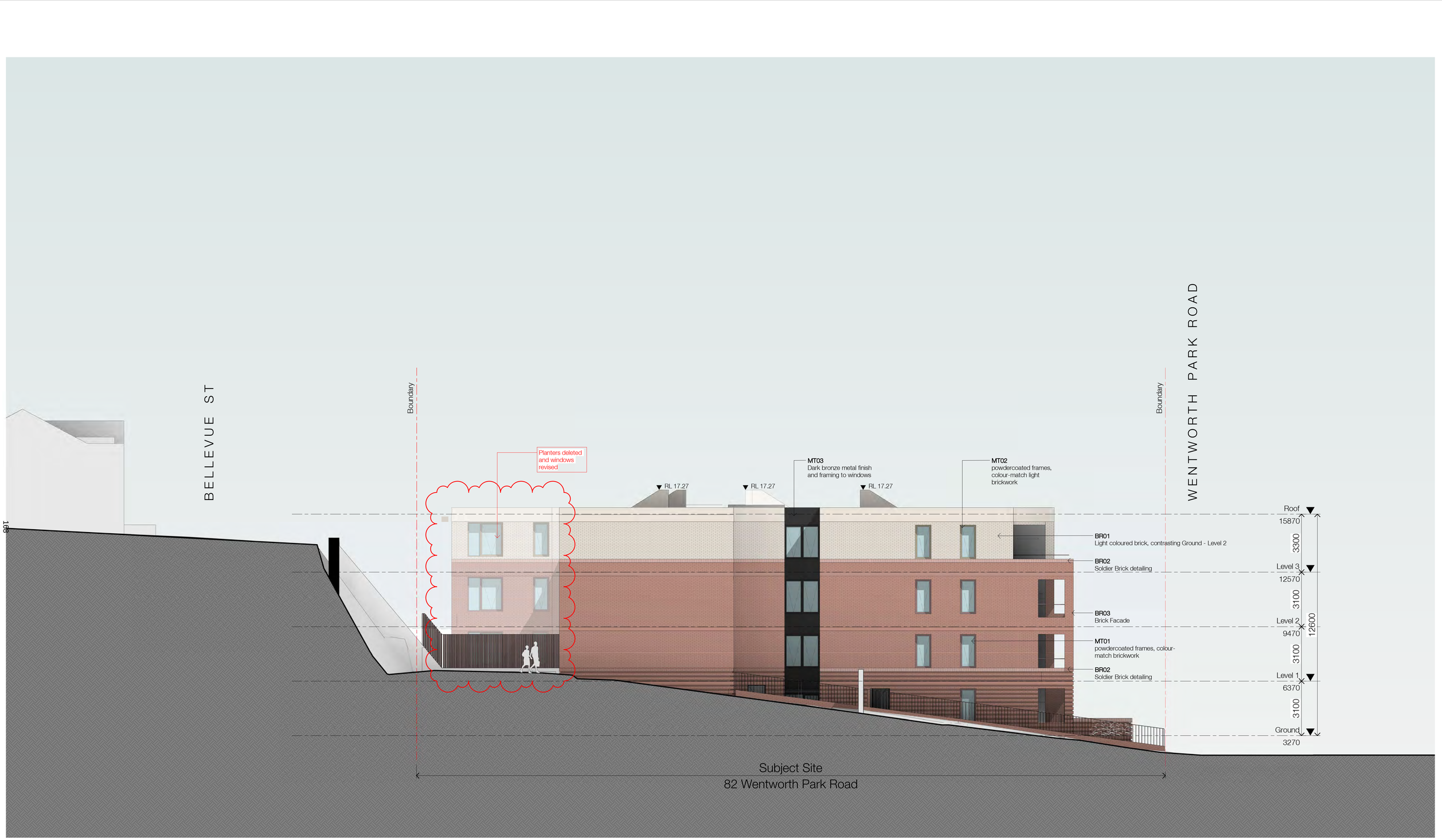

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7	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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Drawing Name
ELEVATION - East

Date 2023-11-10 | Scale 1 : 100 | Sheet Size @ A1

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Job No. 6363 | Drawing No. DA-1403 | Revision / 7

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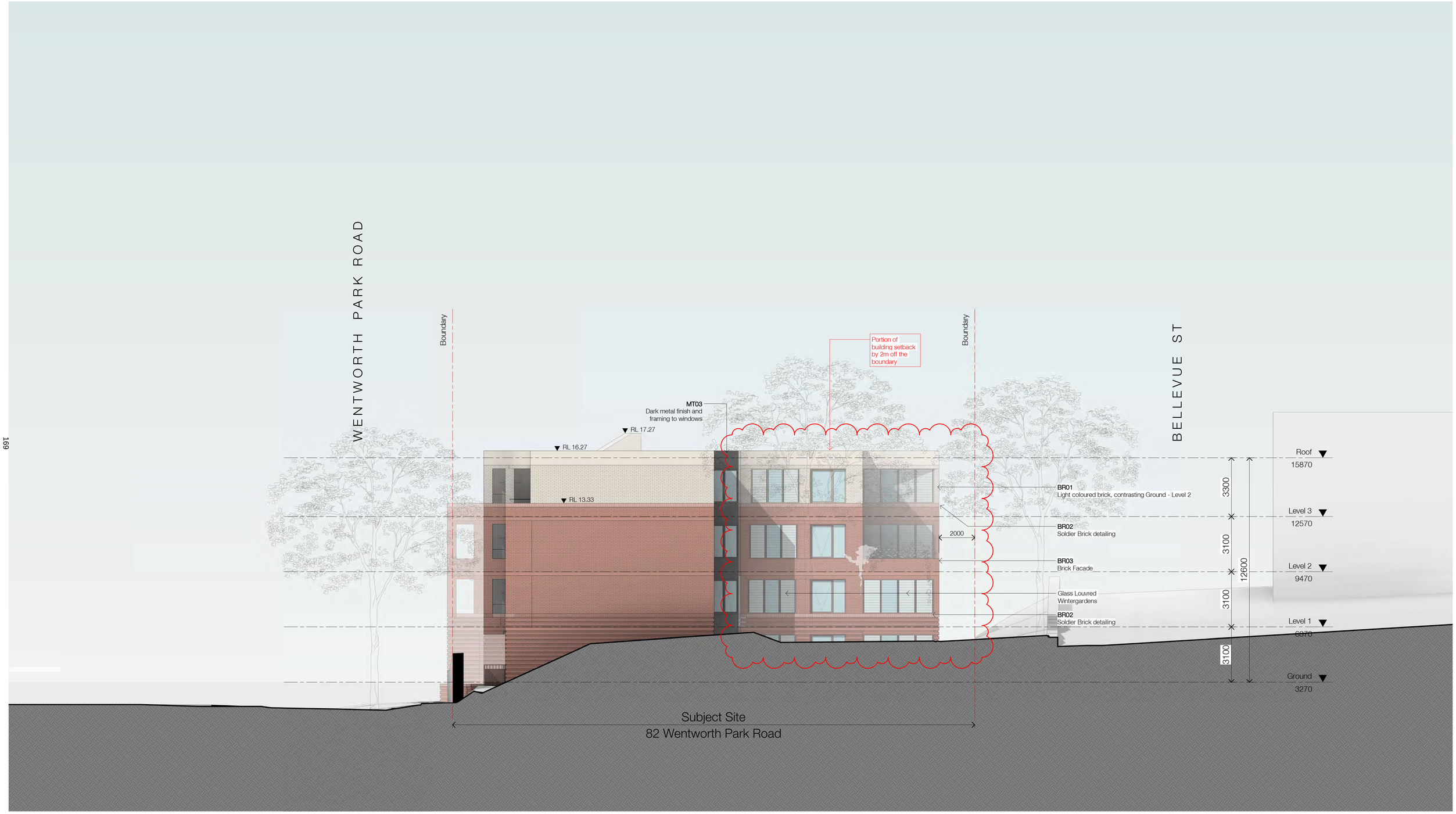

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7	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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Drawing Name
ELEVATION - West

6.8 Average star rating NATIONWIDE HOUSE ENERGY RATING
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Assessor Signature

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2023-11-10	1 : 100	@ A1

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6363	DA-1404	/ 7

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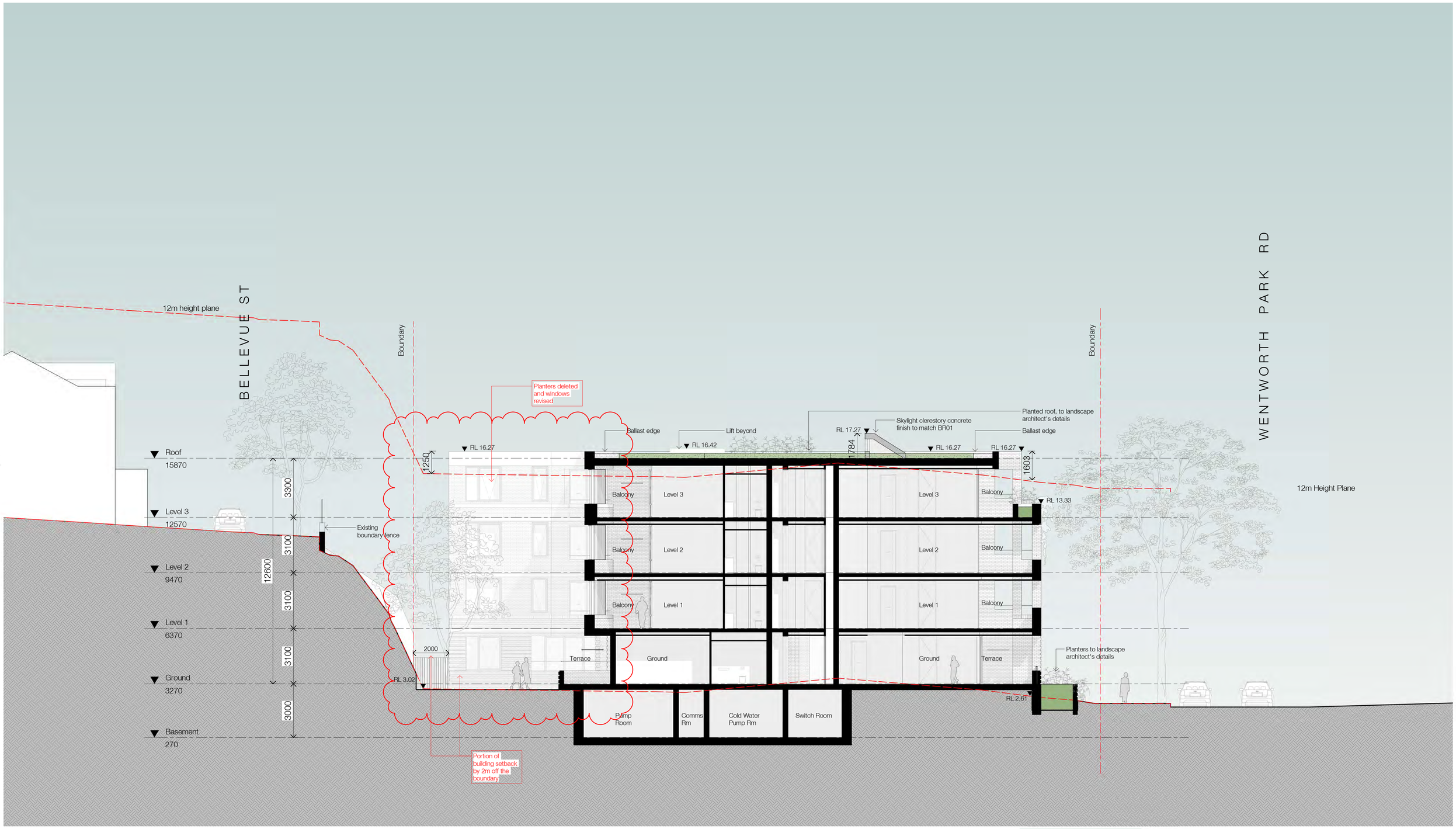





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7	2023-11-08	RFI - BOUNDARY SETBACK	YC	
8	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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Project
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Drawing Name
SECTION - A

Date	Scale	Sheet Size
2023-11-10	1 : 100	@ A1

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6363	DA-1501	/ 8

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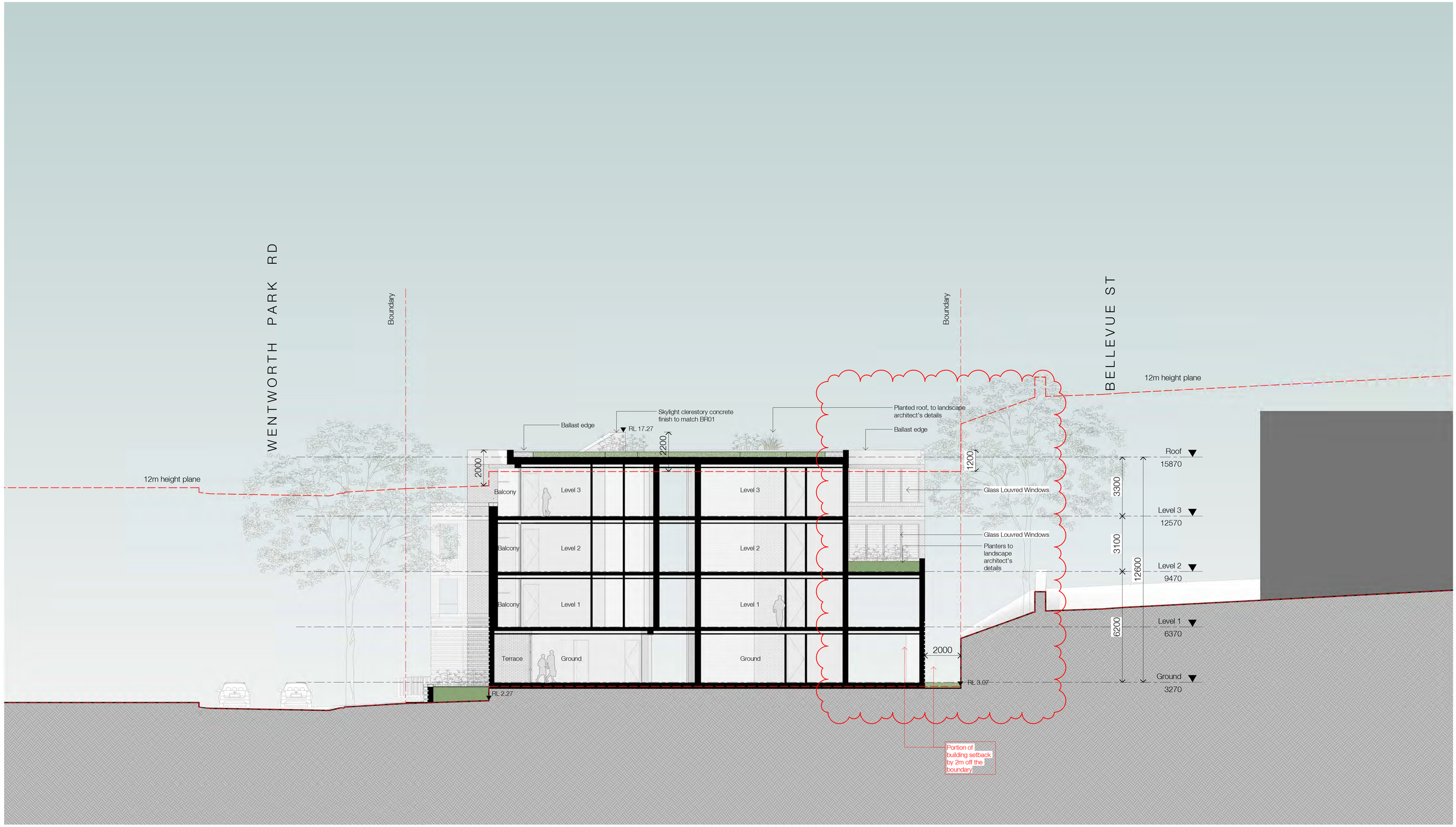

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Drawing Name
SECTION - B

Date: 2023-11-10
Scale: 1 : 100
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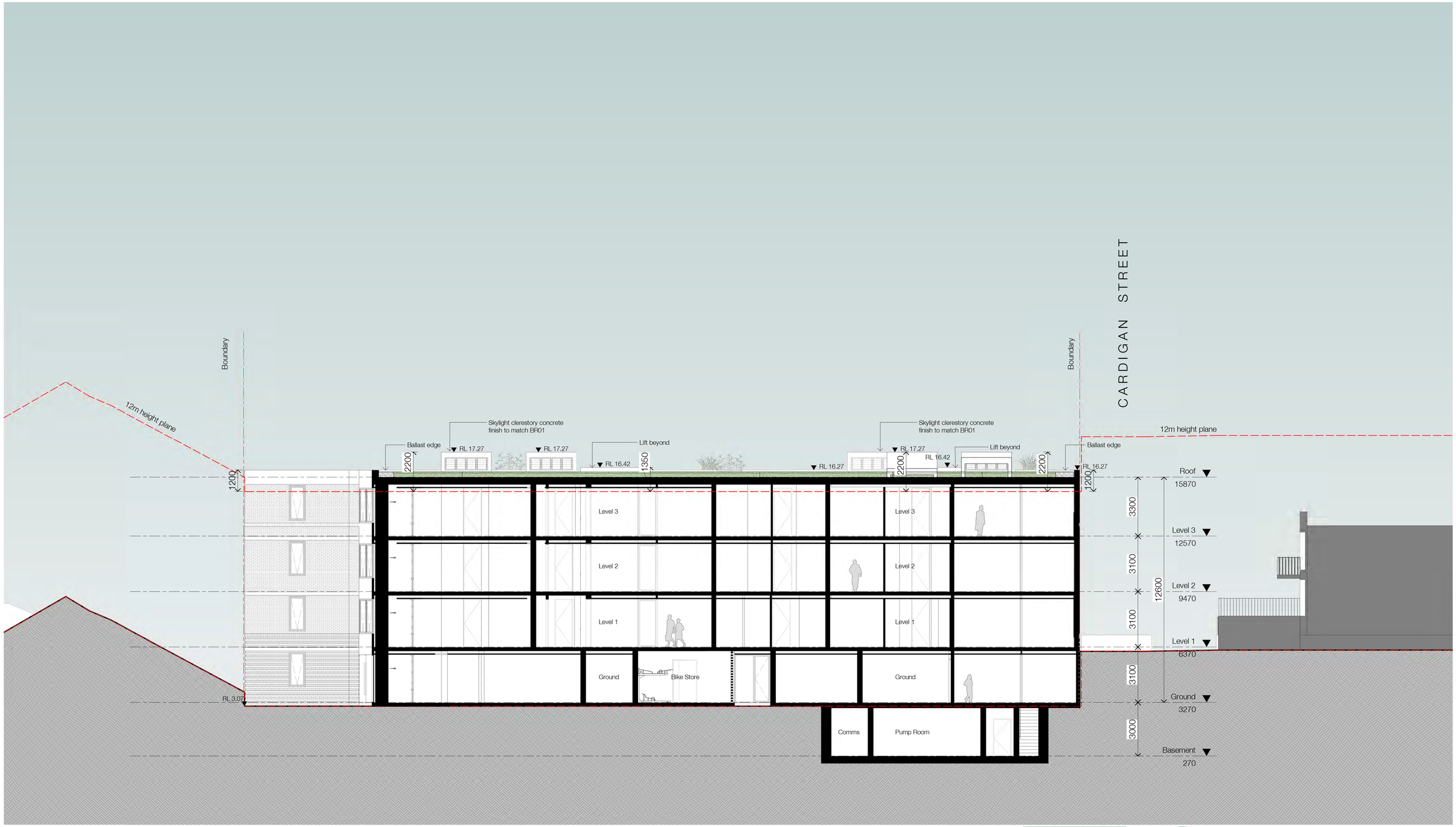

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SECTION - C

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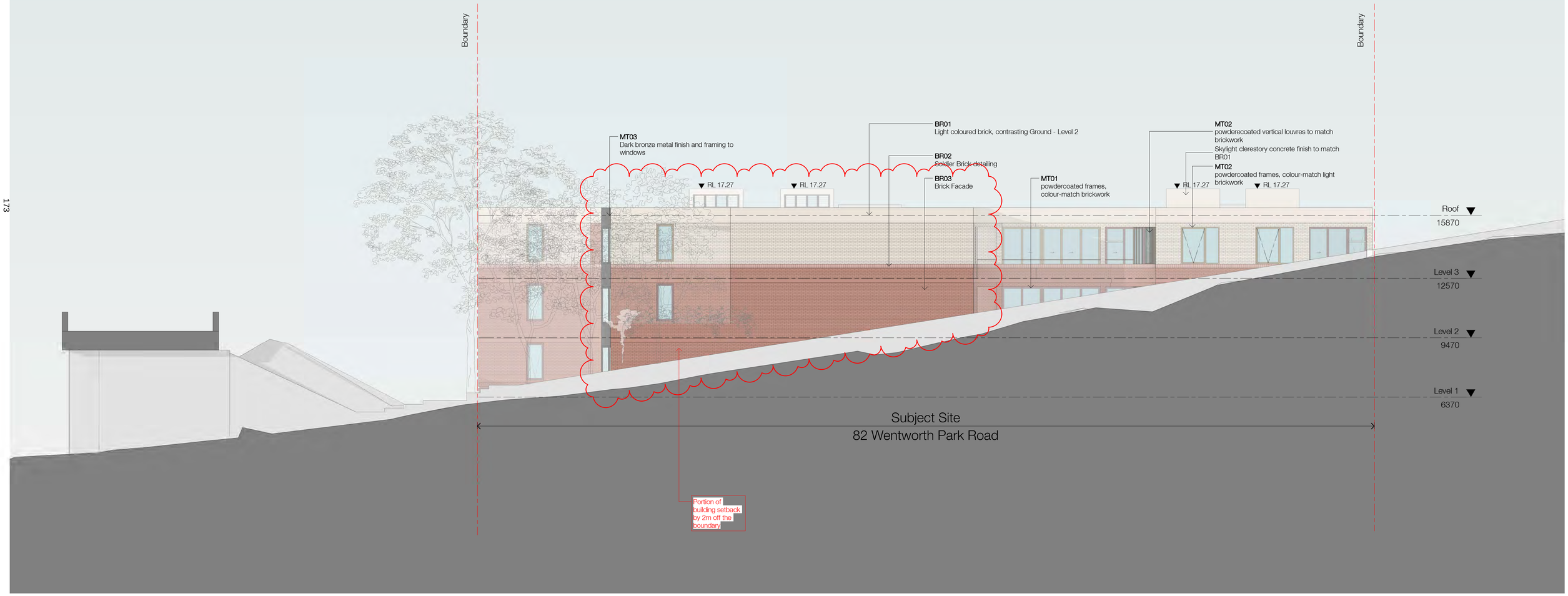





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3	2022-12-07	DA ISSUE - FOR FINAL COORDINATION	YC	
4	2023-08-10	COUNCIL RFI UPDATE	YC	
5	2023-11-08	RFI - BOUNDARY SETBACK	YC	
6	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

Nominated Architects: Adam Haddow-7188 | John Pradel-7004

Client

Project
LAHC
82 Wentworth Park Road, Glebe

Drawing Name
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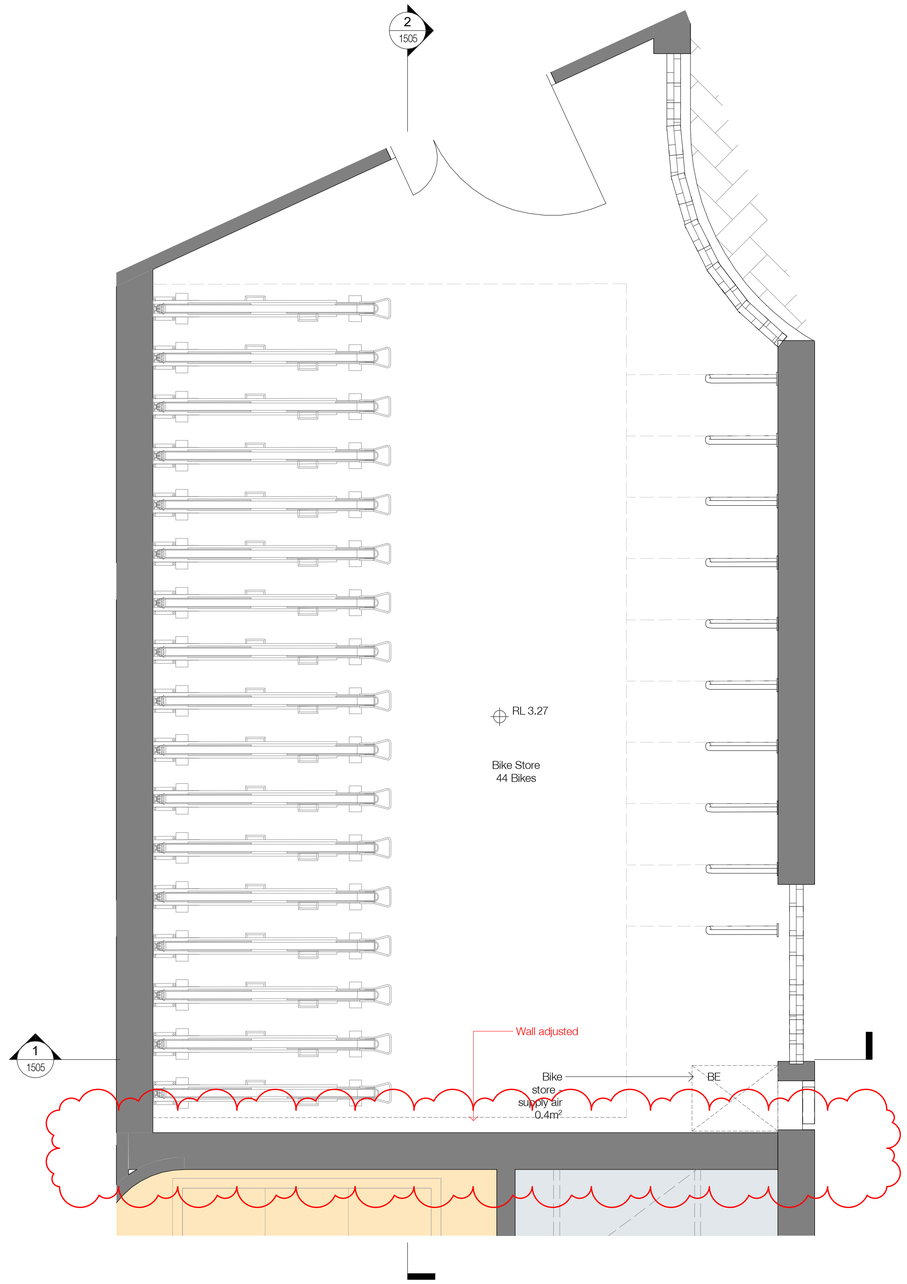

3 Bike Room - Plan
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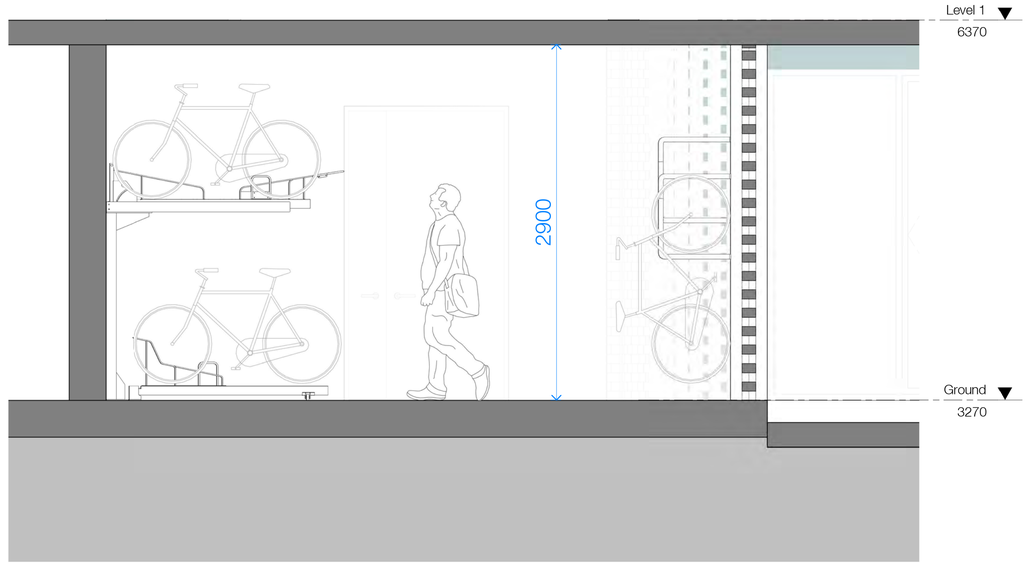
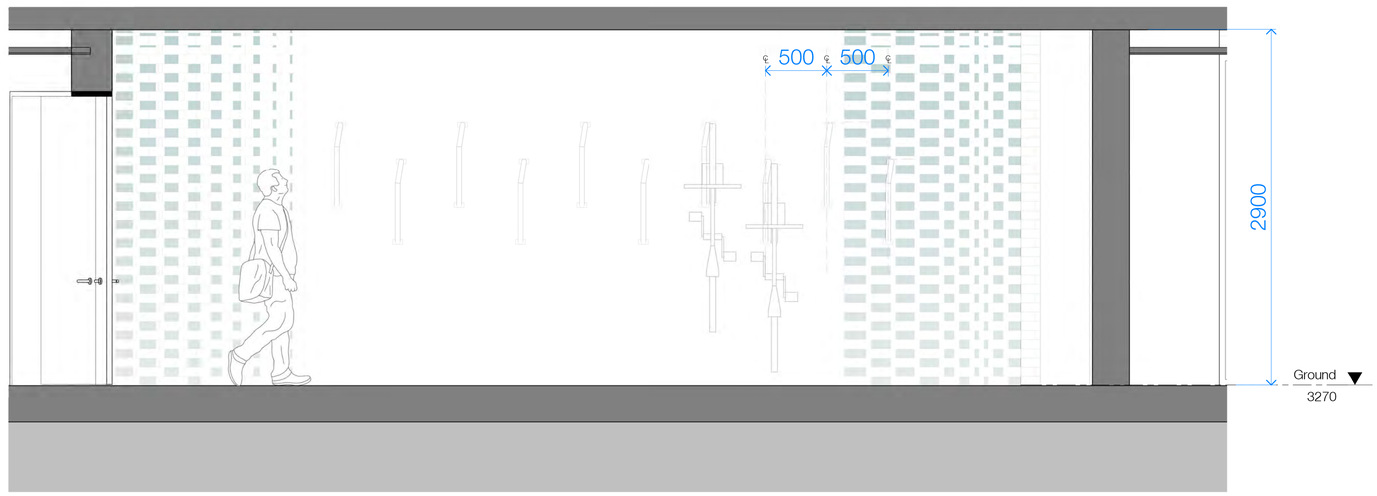
1 : 25@A1



1 Bike Room - Section 1
1505
1 : 25@A1



2 Bike Room - Section 2
1505
1 : 25@A1

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3	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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BIKE ROOM

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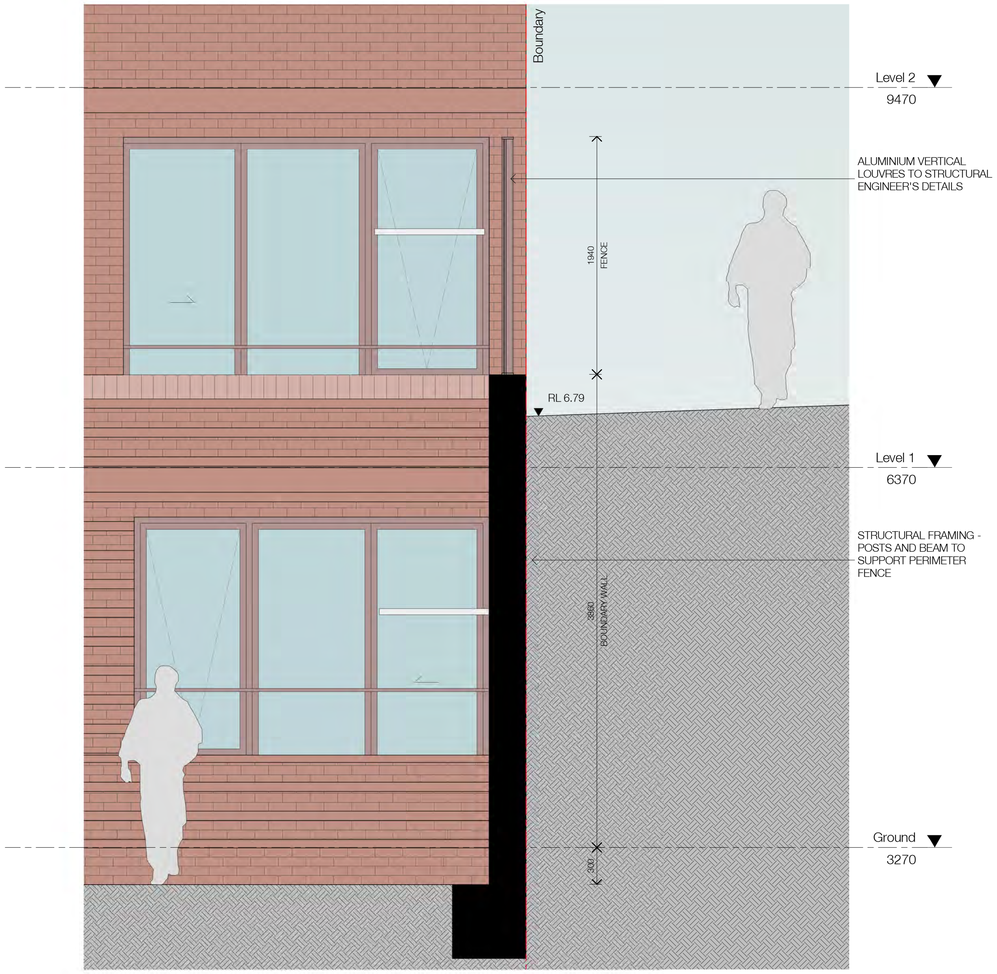

3 / 1002 **Section - Fence**
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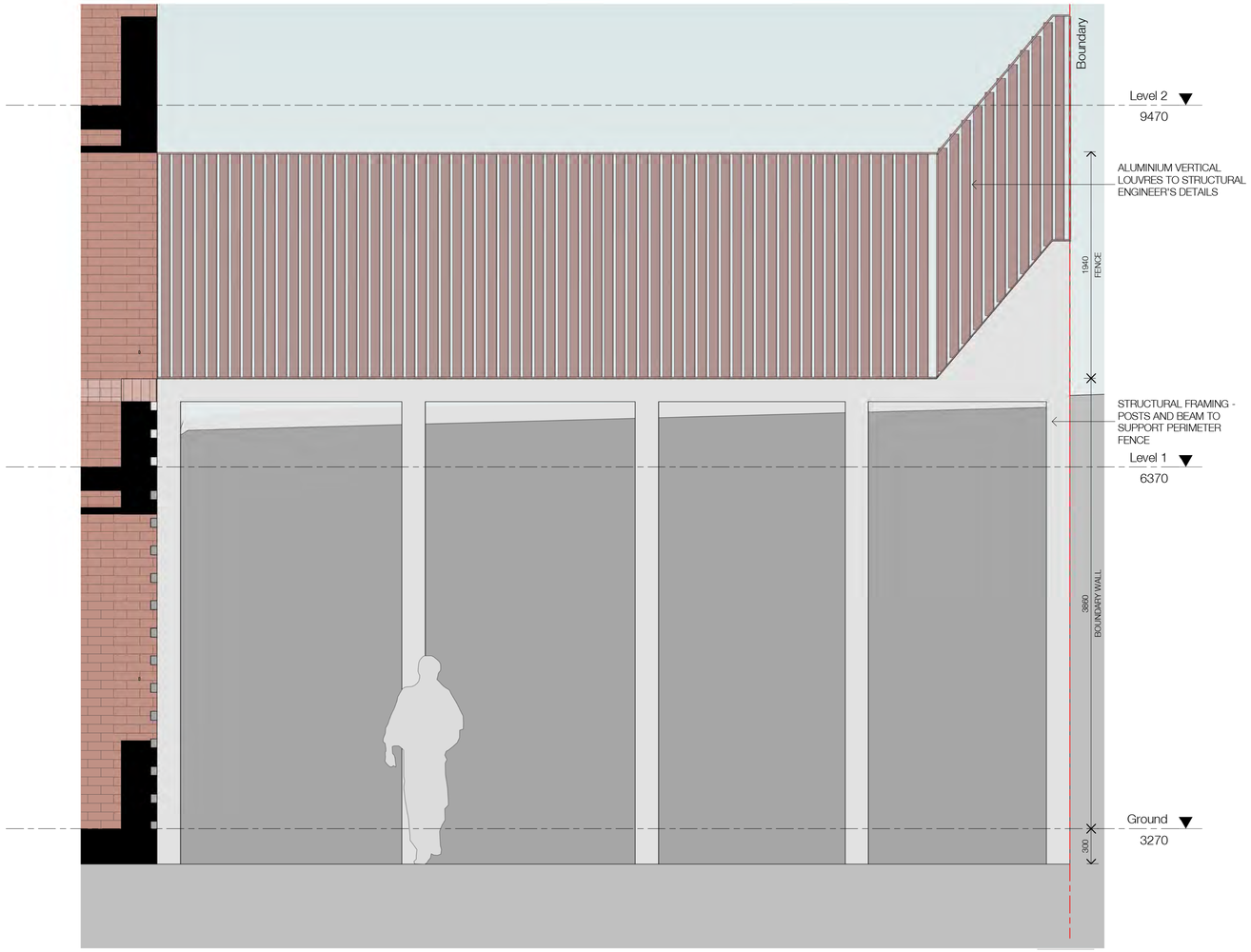

1 / 1002 **Elevation - Fence**
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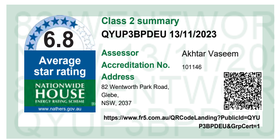



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2	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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BR 01
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Chillingham White



BR 02
Highlights
Wingello



BR 03
Ground - Level 2
Chapel Red



MT 01
Metalwork
Territory Red

MT 02
Metalwork
Linen Pearl



MT 03
Metalwork
Electro Dark Bronze







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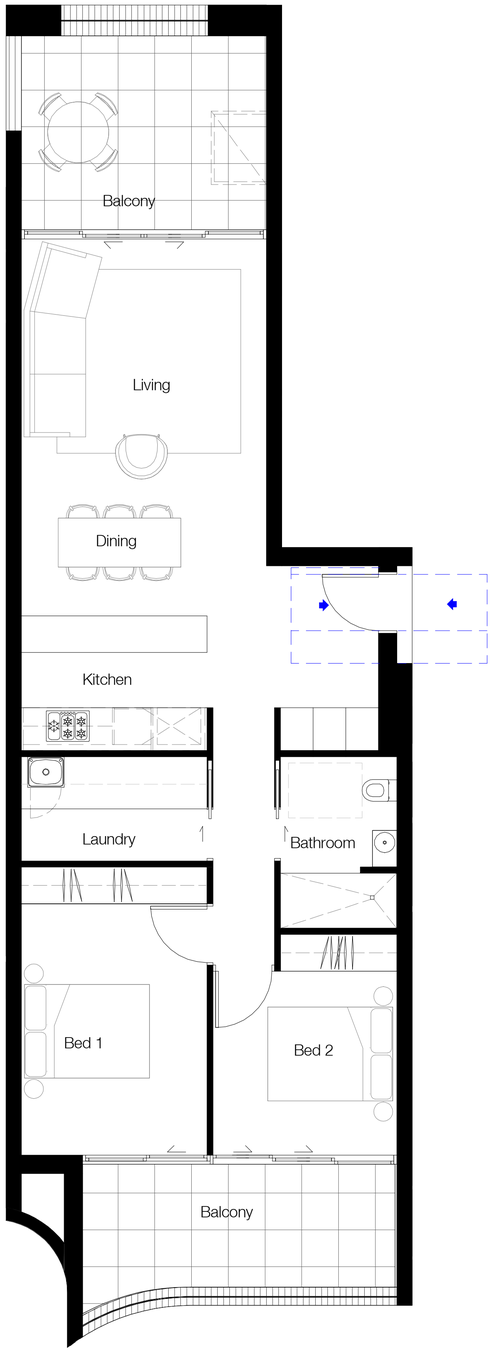
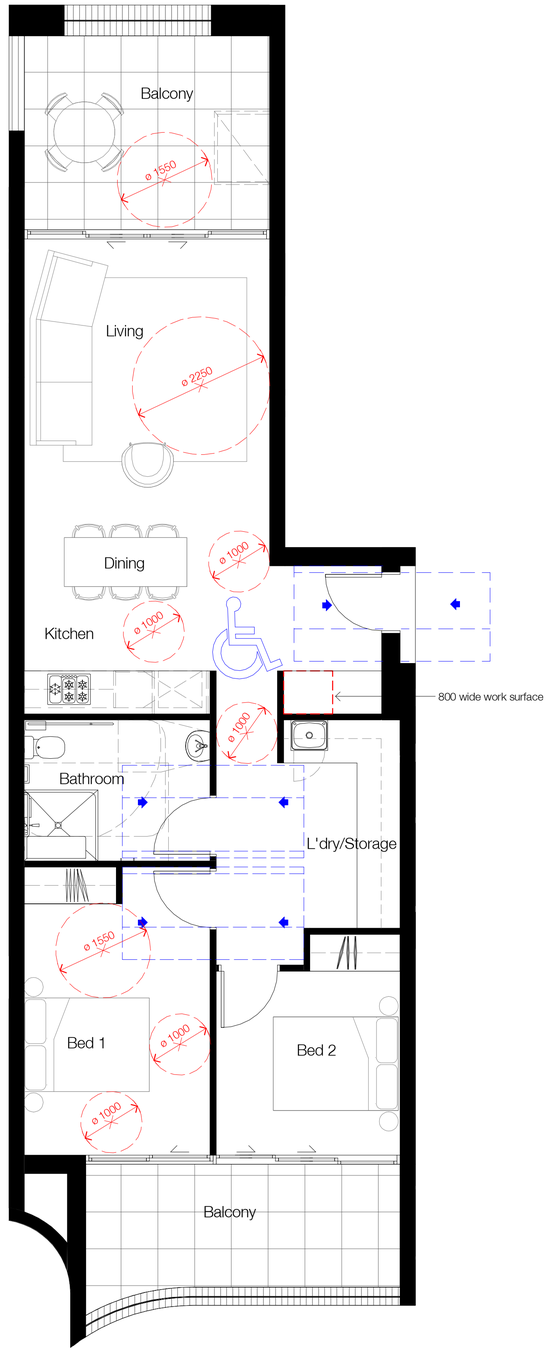


3 **Apartment Layout - 2Bed - Pre-Adapted**
1 : 50@A1



4 **Apartment Layout - 2Bed - Post-Adapted**
1 : 50@A1

15% (7/43) of total apartments required to be adaptable layouts

Level 1: Unit 103 (1B) / 105 (2B)
Level 2: Unit 203 (1B) / 205 (2B) / 209 (1B)
Level 3: Unit 305 (2B) / 309 (1B)

Total 7/43 (15%)

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4	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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Project
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82 Wentworth Park Road, Glebe

Drawing Name
ADAPTABLE LAYOUT - 2BED

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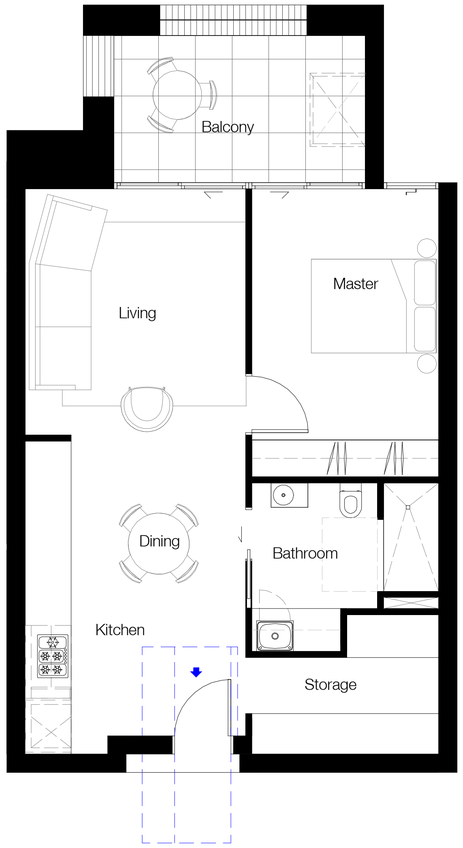

1 **Apartment Layout - 1Bed - Pre-Adapted**
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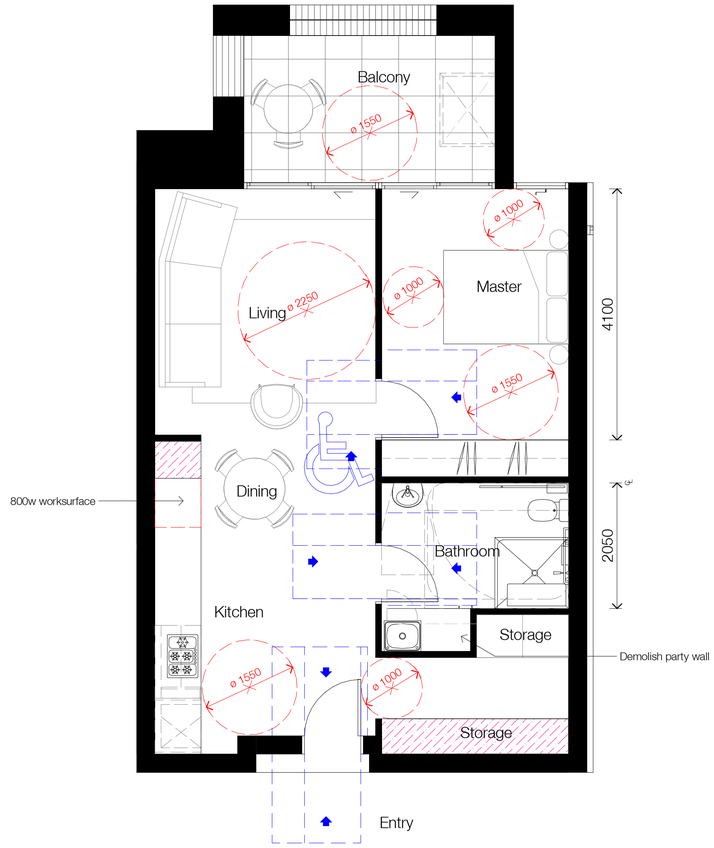

2 **Apartment Layout - 1Bed - Post-Adapted**
1 : 50@A1

15% (7/43) of total apartments required to be adaptable layouts

Level 1: Unit 103 (1B) / 105 (2B)
Level 2: Unit 203 (1B) / 205 (2B) / 209 (1B)
Level 3: Unit 305 (2B) / 309 (1B)

Total 7/43 (15%)

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Drawing Name
ADAPTABLE LAYOUT - 1BED TYPE 1

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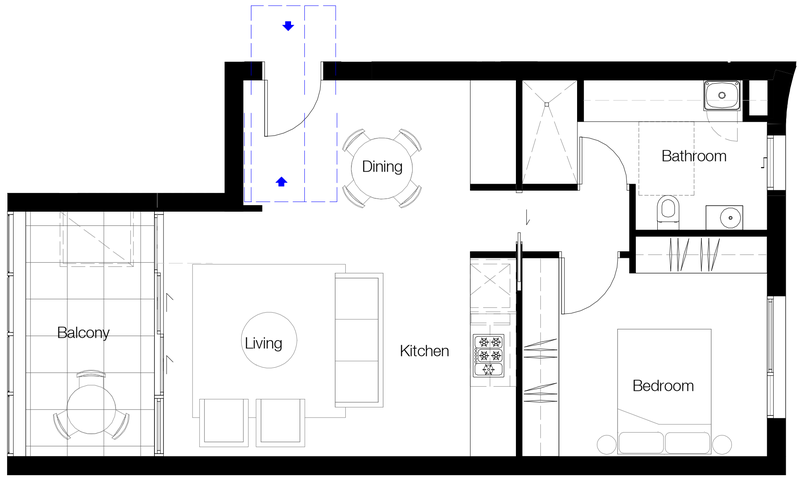

1 **Apartment Layout - 1Bed Type 2 - Pre-Adapted**
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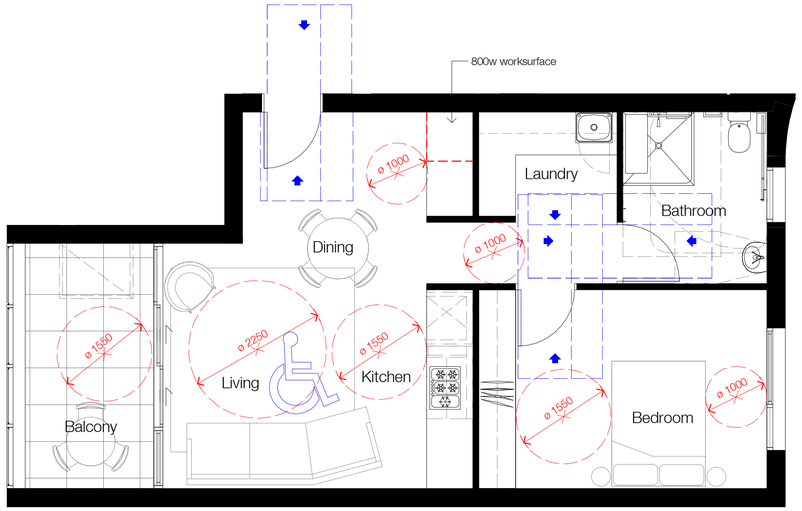

2 **Apartment Layout - 1Bed Type 2 - Post-Adapted**
1 : 50@A1

Layout revised

15% (7/43) of total apartments required to be adaptable layouts

Level 1: Unit 103 (1B) / 105 (2B)
Level 2: Unit 203 (1B) / 205 (2B) / 209 (1B)
Level 3: Unit 305 (2B) / 309 (1B)

Total 7/43 (15%)

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4	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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Drawing Name
ADAPTABLE LAYOUT - 1BED TYPE 2

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Attachment C

Clause 4.6 Variation Request - Height of Buildings



Revised Clause 4.6 Variation Request

82 Wentworth Park Road, Glebe

Prepared on behalf of: NSW Land and Housing Corporation

November 10, 2023

Document control

Authors

Reviewed by	Michael File, Director
Prepared by	Katrina Burley, Associate

Project summary

Applicant	NSW Land and Housing Corporation
Applicant's address	4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150
Land to be developed	82 Wentworth Park Road, Glebe
Legal description	Lot 1-4 DP82924
Project description	Development of a four-storey residential flat building comprising 43 affordable housing dwellings

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Executive Summary

This report has been prepared to request a variation to a development standard subject to Clause 4.6 of the *Sydney Local Environmental Plan 2012* (Sydney LEP) in connection with a development application for a residential flat building for the purpose of affordable housing (to be managed as 100% social housing by NSW LAHC) at 82 Wentworth Park Road, Glebe.

The site is currently zoned R1 General Residential under the Sydney LEP and the following built form controls apply:

- FSR of 1.75:1
- Maximum height of 12m

The *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) provides for an additional 0.5:1 FSR for providing more than 20% affordable housing as part of a development. This allows the development to exceed the mapped FSR control of 1.75:1 for the site in Sydney LEP. The proposal has an allowable FSR of 2.25:1 under the Sydney LEP and Housing SEPP. The revised proposal is compliant with an FSR of 1.85:1.

The proposal will facilitate the provision of 43 affordable housing dwellings on the site. The proposal exceeds the maximum building height due to design measures to accommodate the bonus floor space provided by the Housing SEPP, to facilitate increased affordable housing on the site, and to accommodate the 1% AEP flood level requirements for the site. A very minor height exceedance is also required to accommodate the lift over run.

The proposed floorspace is below the maximum allowable FSR available. The proposed floorspace is appropriately accommodated on the site through a minor variation to height, rather than accommodating the additional floorspace within the 12m height limit which would result in increased bulk, scale, and amenity impacts.

The building height non-compliance is also required to accommodate the lift overrun and required flood planning levels along Wentworth Park Road which is subject to the 1% AEP flood event. The level established to comply with flood level requirements is the 1% AEP level at the site of RL2.77 +0.5m. This is a level of RL3.27, which ranges from 0.6 to 1m above ground level across the site. The need for additional height to accommodate the required flood planning levels was acknowledged by Council in the pre-DA advice (dated 30 March 2021).

In response to a Request for Information (RFI) received in June 2023, the proposal was revised to include clerestory skylights to improve solar access and cross ventilation to upper-level units. To accommodate the recommended clerestory skylights a minor variation to the height control is required. The extent of variation is minor and limited to 3% of the total roof area. The revised proposal will deliver better outcomes, including improved amenity outcomes, and does not result in any significant impacts to surrounding properties.

As part of the revised plans provided in response to the RFI in June 2023, the need for a minor increase to the lift overrun was also identified. The minor increase is required to provide sufficient allowance for the lift overrun. The minor exceedance for the lift overrun is no greater than 1.35m (noting a minor increase of 200mm was identified as part of the RFI response in June 2023 which resulted in an increase from RL 16.22 in the exhibited proposal to RL 16.42 in the revised proposal). The minor increase does not result in any impacts.

The proposal has been further revised in response to an RFI received in October 2023, to provide a 2m setback between the building and the existing retaining wall on Bellevue Street. The revised proposal

includes minor changes to the building and apartment layout but does not result in any change to the proposed building height and results in a minor reduction to the proposed FSR (a reduction from 1.93:1 to 1.85:1 in the revised proposal).

The proposal provides significant public benefit in the form of new and increased affordable housing. Despite the non-compliance, the proposed development does not result in any unreasonable amenity impacts to adjoining properties, heritage conservation area, or public domain.

The proposal is consistent with the objectives of Clause 4.3 'Height of Buildings', and the zone objectives of the R1 General Residential zone in the Sydney LEP. As such compliance is considered unnecessary or unreasonable in the circumstances and there are sufficient environmental planning grounds to justify the departure from the height control.

Clause 4.6 of the Sydney LEP includes provisions that allow for variation of development standards in certain circumstances where compliance with the standard is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify contravening the development standard.

Clause 4.6 requires the concurrence of the Secretary of the Department of Planning, Industry and Environment. However, all consent authorities have been granted assumed concurrence under *Planning Circular PS 20-002 Variations to Development Standards* (5 May 2020). The assumed concurrence includes a condition that numerical standards (such as height of buildings) cannot be varied by greater than 10% if determined by a delegated authority. It is noted that this restriction does not apply where the Council or Planning Panel is the decision maker. Accordingly, the assumed concurrence applies.

The proposed height variation is justified for the following reasons.

- The extent of the building height non-compliance is minor with the majority of the building height variance generally 1.2m or less (10%), with a small portion of the proposed building exceeding the height limit by 2.2m (18.3%) for a small portion of building to accommodate clerestory skylights. The extent of the height exceedance for the skylights is limited to 3% of the roof area.
- The building height non-compliance is required to accommodate the lift overrun and required flood planning levels along Wentworth Park Road which is subject to the 1% AEP flood event.
- The proposed non-compliance is contained in a recessed upper level that will not impact on the adjoining residential properties to the southwest or southeast of the site. The clerestory skylights have been carefully located and integrated with the roof design to minimise impacts, such as views and overshadowing.
- The proposal will not significantly impact views from properties on Bellevue Street, or public views from Wentworth Park.
- The proposal represents an appropriate built form on the site and is compatible with surrounding built form character and does not impact the significance of the heritage conservation area.
- The proposal accommodates new and increased affordable housing on the site - essential social infrastructure and is consistent with the objectives of the Housing SEPP and the City of Sydney's LSPS. The minor height variation facilitates an additional 11 affordable housing apartments on the site within a wholly affordable housing development.
- Visual and streetscape impacts will be negligible as the building is designed to appear as 3-storeys from Wentworth Park Road, with the upper-level setback and rooftop landscaping. The proposed skylights have been carefully designed and integrated with the roof to ensure no impacts to surrounding properties.
- Any additional overshadowing impacts will be minor and there would be no significant increased overshadowing to adjoining dwellings. All adjoining dwellings maintain a minimum of 2 hours of solar access in mid-winter.

The proposal is in the public interest as it will increase the amount of affordable housing on the site. The proposal contributes to the housing needs of the community through renewal and provision of increased affordable housing in a highly accessible location, close to transport, open space, and services.

On this basis the variation is considered to be appropriate, justified and in the public interest.

1 Introduction

This report has been prepared to request a variation to a development standard subject to Clause 4.6 of the *Sydney Local Environmental Plan 2012* (Sydney LEP) in connection with a development application for development of residential flat building for affordable housing at 82 Wentworth Park Road, Glebe.

The site is currently zoned R1 General Residential under the Sydney LEP and the following built form controls apply:

- FSR of 1.75:1 (Figure 1)
- Maximum height of 12m (Figure 2)

The *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) provides for an additional 0.5:1 FSR for providing more than 20% affordable housing as part of a development. This allows the development to exceed the mapped FSR control of 1.75:1 for the site in Sydney LEP. The proposal has an allowable FSR of 2.25:1 under the Sydney LEP and Housing SEPP, with the revised development proposing a compliant FSR of 1.85:1.

The proposal exceeds the maximum building height due to design measures to accommodate the bonus floor space provided by the Housing SEPP and to facilitate increased affordable housing on the site.

The proposed floorspace is below the maximum allowable FSR available. The proposed floorspace is appropriately accommodated on the site through a minor variation to height, rather than accommodating the additional floorspace within the 12m height limit which would result in increased bulk, scale, and amenity impacts.

The height exceedance generally does not exceed more than 1.2m (10%) except in limited circumstances where the building height non-compliance is 2.2m (18%) for a small part of the building. This exceedance is limited to a 3% of the roof area and is required to accommodate clerestory skylights in the revised proposal.

The proposed skylights will achieve better outcomes for the site including cross ventilation and amenity outcomes, while not resulting in any significant impacts to surrounding properties. The skylights have been carefully designed and located to minimise any potential impacts on neighbours including views and overshadowing.

A minor height increase is also required to provide sufficient allowance to accommodate the lift overrun. The minor height exceedance for the lift overrun is no greater than 1.35m. The minor increase does not result in any impacts.

Clause 4.6 of the Sydney LEP includes provisions that allow Council to vary development standards in certain circumstances. The objectives of clause 4.6 are:

- To provide an appropriate degree of flexibility in applying certain development standards to particular development
- To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6 requires Council to consider a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances
- There are sufficient environmental planning grounds to justify contravening the development standard.

In making its determination Council must also consider whether the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

Clause 4.6 requires the concurrence of the Secretary of the Department of Planning, Industry and Environment. However, all consent authorities have been granted assumed concurrence under *Planning Circular PS 20-002 Variations to Development Standards* (5 May 2020). The assumed concurrence includes a condition that numerical standards (such as height of buildings) cannot be varied by greater than 10% if determined by a delegated authority. It is noted that this restriction does not apply where the Council or Planning Panel is the decision maker. Accordingly, the assumed concurrence applies.

The Department of Planning, Industry and Environment has issued Varying Development Standards – A Guide 2011 to assist applicants in applying to vary development standards. The guide sets out a 'five part test' which has been established by the NSW Land and Environment Court which may be considered in applying Clause 4.6 to determine whether the objection to the development standard is well founded.

The matters outlined above have been considered and addressed by this report.



Figure 1: Maximum floor space ratio



Figure 2: Maximum height of buildings

2 Site location and context

2.1 The site

The site is located at 82 Wentworth Park Road, Glebe, and is legally described as Lot 1- 4 DP82924. The site has an approximate site area of 1,633sqm.

The site is bound by Wentworth Park Road to the east, Bellevue Street to the west, Cardigan Street to the south and the Glebe and Wentworth Park railway viaducts to the north. The site is directly opposite Wentworth Park, a significant regional open space asset.

The site is occupied by 17 social housing dwellings comprising semi-detached dwellings and townhouses. The site has numerous trees within the boundary, particularly along on the northern and western boundary, and mature heritage-listed street trees are located along Wentworth Park Road.

To the rear of the site is a steep rock shelf between 3-10 metres high resulting in a significant level change to Bellevue Street in this location. Two to three storey residential terraces and Thomas Portley Reserve, a small local park and playground, are located on Bellevue Street.

To the south of the site is Cardigan Street and the carpark of the neighbouring commercial uses which are located in two storey buildings located between Cardigan Lane and Bellevue Street. A series of two storey terraces front Wentworth Park Road to the south of the site. The surrounding residential uses are predominantly low scale Victorian terraces and semi-detached housing or converted warehouse apartments.



Figure 3: Subject site

3 The proposal

The proposed development is for a four-storey residential apartment building providing 43 affordable housing dwellings. Key aspects of the proposal are described in further detail below.

3.1 Yield and dwelling mix

The revised proposed development will provide an FSR of 1.85:1, complying with the FSR control of 2.25:1 (1.75:1 + 0.5:1) available under the Sydney LEP and Housing SEPP. The proposal includes 43 new apartments to renew and increase affordable housing supply (a significant increase from the 17 existing social housing dwellings on site). The following apartment mix is proposed in the revised proposal:

- 4 x studio (9.3%)
- 29 x 1 bedroom (67.4%)
- 10 x 2 bedroom (23.3%)

3.2 Built form and design

The proposed development has been designed to respond to the local context and the proposal is in keeping with the existing scale and grain of the streetscape of the heritage conservation area. The proposal responds to the 2-3 storey terraces in the surrounding area, presenting as a 3 storey building along Wentworth Park Road, with the 4th storey setback and articulated with lighter materials to minimise the scale of the built form and mimimse impacts on views from surrounding properties.

The proposal includes terrace-style apartments and a stagged setback along Wentworth Park Road, with alternating projecting and recessive bays to also articulate and modulate the façade and break up building mass.



Figure 4: View from Wentworth Park Road



Figure 5: View from the north of the site on Bellevue Street



Figure 6: North Elevation (Wentworth Park Road)

4 Extent of variation to development standard

This clause 4.6 Variation Request seeks a variation to the 12m height control for the site.

This building height non-compliance results in a minor variation to the building height control to facilitate the renewal and increase in affordable housing on the site. The proposal will facilitate the provision of 43 affordable housing dwellings on the site.

The proposal has an allowable FSR of 2.25:1 under the Sydney LEP and Housing SEPP, with the revised development proposing an FSR of 1.85:1. The Housing SEPP provides for an additional 0.5:1 FSR for providing affordable housing as part of a development. This allows the development to exceed the mapped FSR control of 1.75:1 for the site in Sydney LEP.

The proposal exceeds the maximum building height due to design measures to accommodate the bonus floor space provided by the Housing SEPP to facilitate increased affordable housing on the site and to accommodate the 1% AEP flood level requirements for the site.

The building height non-compliance is required to accommodate the required flood planning levels along Wentworth Park Road which is subject to the 1% AEP flood level. The proposal addresses the required flood planning levels, which results in the need for additional building height, particularly at the front of the site where the site slopes to Wentworth Park Road.

In response to the RFI received on 21 June 2023, the proposal was revised to include clerestory skylights to improve solar access and cross ventilation to upper-level units. A minor height exceedance is required to accommodate the skylights. The extent of variation is limited to 3% of the total roof area and does not result in any significant impacts to surrounding properties.

The proposed skylights will achieve better outcomes for the site including improved cross ventilation and amenity outcomes, while not resulting in any significant impacts to surrounding properties. The skylights have been carefully designed and located to minimise any potential impacts, such as views and overshadowing.

A minor height increase is also required to provide sufficient allowance to accommodate the lift overrun. The minor height exceedance for the lift overrun is no greater than 1.35m. The minor increase does not result in any impacts.

The proposed floorspace is below the maximum allowable FSR available. The bonus floorspace is appropriately accommodated on the site through a minor variation to height, rather than accommodating the additional floorspace within the 12m height limit which would result in increased bulk, scale, and amenity impacts. proposal also appropriately responds to the required flood planning levels, which necessitates the need for additional height on the site to accommodate the higher ground floor levels.

The proposal provides significant public benefit in the form of new and increased affordable housing. Despite the non-compliance, the proposed development does not result in any unreasonable amenity impacts to adjoining properties, heritage conservation area, or public domain.

The height exceedance generally does not exceed more than 10% (1.2m) except in limited circumstances where the building height non-compliance is 2.2m (18%) for a small part of the building. This exceedance is limited to 3% of the building area and results from inclusion of clerestory skylights as recommended in the RFI received in June 2023.

The extent of the variation is illustrated in Figure 7, 8 and 9 and at Appendix A.



Figure 7: Extent of variation – cross section

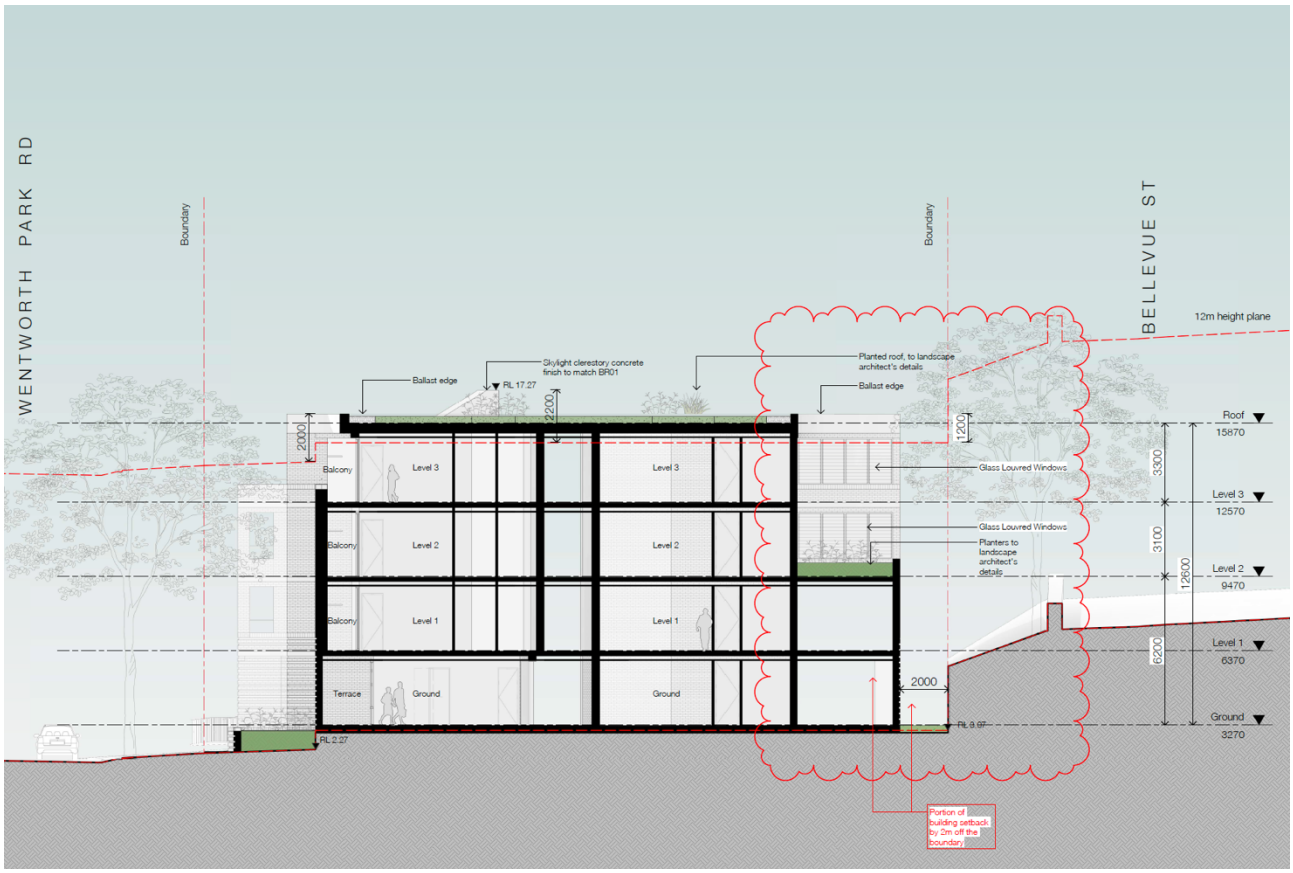


Figure 8: Extent of variation – cross section

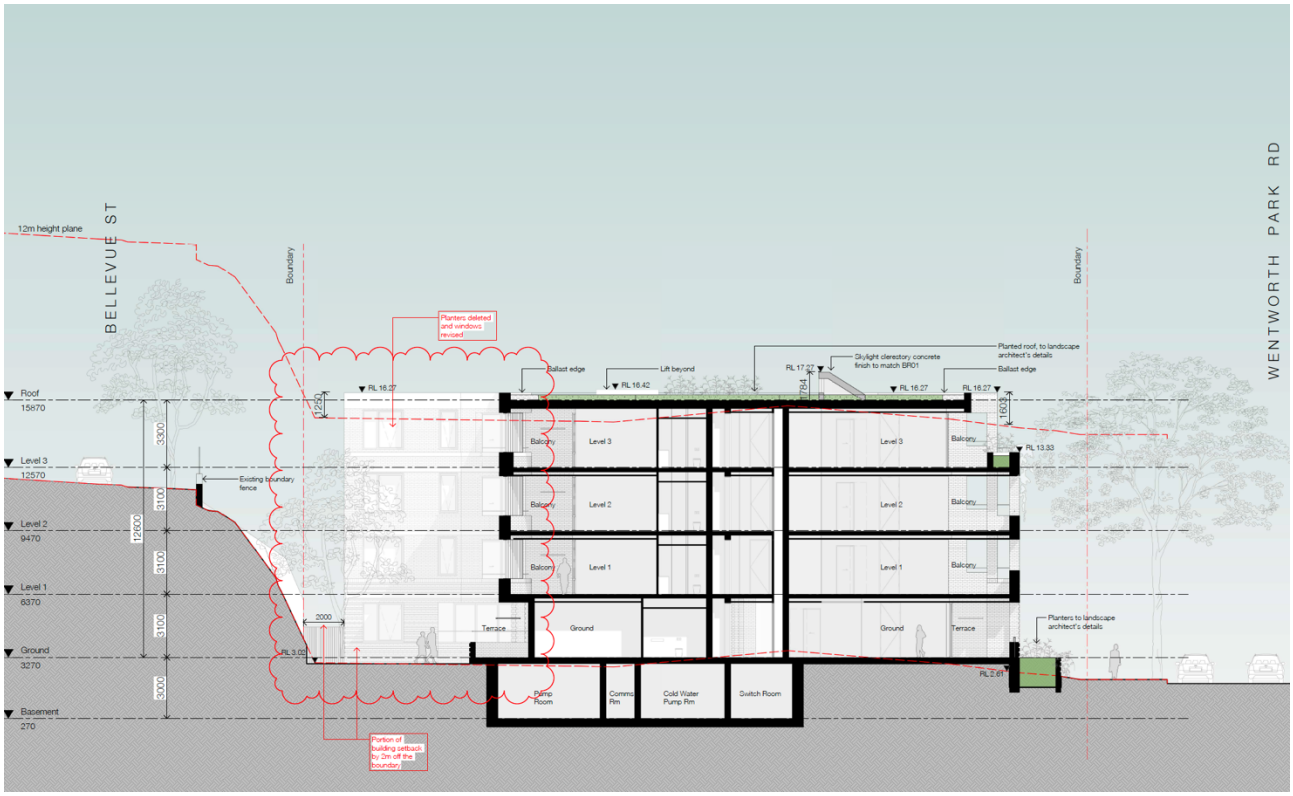


Figure 9: Extent of variation – cross section

5 Justification of variation

This section of the report provides consideration of the requirements of Clause 4.6 as well as the 'five part test' set out in *Varying Development Standards – A Guide 2011.*

5.1 Consideration of Clause 4.6 requirements

Clause 4.6(3)(a): compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

Compliance with the development standard is considered unreasonable and unnecessary in this instance.

As demonstrated in the sections at Figure 7, Figure 8 and Figure 9 the variation will have negligible impact on the amenity of the surrounding area and will not impact on the ability of the proposal to achieve the relevant objectives of the Sydney LEP as set out in Clause 4.3 – Height of Buildings and for the R1 General Residential zone which applies to the site.

Clause 4.6(3)(a): there are sufficient environmental planning grounds to justify contravening the development standard

There are sufficient environmental planning grounds to justify the proposed variation as outlined below.

The proposal exceeds the maximum building height due to design measures to accommodate the bonus floor space provided by the Housing SEPP to facilitate increased affordable housing on the site and to accommodate the 1% AEP flood level requirements for the site.

The building height non-compliance is required to accommodate the required flood planning levels for the site which is subject to the 1% AEP flood event. The level established to comply with flood level requirements is RL +2.77 +0.5m (RL + 3.27). The proposal includes the required flood planning levels, which results in the need for additional building height, particularly at the front of the site where the site slopes to Wentworth Park Road.

The proposed height exceedance is required to accommodate clerestory skylights as recommended in the RFI received in June 2023 to improve solar access and cross ventilation to upper-level units. A minor height exceedance is required to accommodate the skylights; however, the extent of variation is limited to 3% of the total roof area and does not result in any significant impacts to surrounding properties.

The proposed skylights will achieve better outcomes for the site including improved cross ventilation and amenity outcomes, while not resulting in any significant impacts to surrounding properties. The skylights have been carefully designed and located to minimise any potential impacts, such as views and overshadowing.

A minor height increase is also required to provide sufficient allowance to accommodate the lift overrun. The minor height exceedance for the lift overrun is no greater than 1.35m. The minor increase does not result in any impacts.

The proposed floorspace is below the maximum allowable FSR available. The bonus floorspace is appropriately accommodated on the site through a minor variation to height, rather than accommodating the additional floorspace within the 12m height limit which would result in increased bulk, scale, and amenity impacts. The proposal also appropriately responds to the required flood planning levels, which necessitates the need for additional height on the site to accommodate the higher ground floor levels.

The proposal provides significant public benefit in the form of new and increased affordable housing. Despite the non-compliance, the proposed development does not result in any unreasonable amenity impacts to adjoining properties, heritage conservation area, or public domain.

The height exceedance generally does not exceed more than 10% (1.2m) except in limited circumstances where the building height non-compliance is 2.2m (18.3%) for a small part of the building. This exceedance is limited to 3% of the roof area and is required to accommodate the proposed clerestory skylights in the revised proposal.

The building height non-compliance is justified by the provision of new and increased affordable housing (critical social infrastructure) on the site, the need to respond to the required flood planning levels and providing better outcomes through improved amenity for residents. The minor building height non-compliance provides for an additional 11 affordable housing apartments on the upper level and supports increased affordable housing supply in the local area.

The building height non-compliance will not result in any adverse amenity impacts. From a visual and streetscape point of view the minor extent of the variation means that the impacts would be negligible from the public domain or when viewed from surrounding properties.

In summary the variation will result in negligible environmental impacts, whilst enhancing affordable housing supply, responding to flood planning requirements on the site and delivering better amenity outcomes.

Clause 4.6(4)(a)(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

The proposed development is consistent with the objectives of Clause 4.3 Height of Buildings as shown in Table 1 and the objectives of the R1 General Residential zone which applies to the site as shown in Table 2.

Table 1: Consideration of Clause 4.3 Height of Buildings objectives

Objective	Consideration
To ensure the height of development is appropriate to the condition of the site and its context	The building height non-compliance is compatible with the will the surrounding built form context. The building design seeks to respond to and enhance the local character through high quality building design and use of materials consistent with the local character. The proposed building provides terrace style dwellings along Wentworth Park Road and provides staggered building setbacks to reduce bulk and scale and align with surrounding developments.
To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas	The proposed development provides an appropriate height transition to heritage items and does not impact the significance of the heritage conservation area. The proposed building is appropriately scaled and setback to reduce bulk and scale and minimise impacts.
To promote the sharing of views outside Central Sydney	The building height non-compliance will not impact on significant views and promotes view sharing. The proposed building has been designed to minimise impacts to views. Views to Wentworth Park Road Underbridge and viaduct, Wentworth Park, Sydney CBD (from Bellevue Street) and views within the Lyndhurst Conservation Area will be retained.

Table 2: Consideration of objectives of the R1 General Residential zone

Objective	Consideration
To provide for the housing needs of the community	The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site). The building height non-compliance will support additional affordable housing supply without resulting in any significant additional amenity impacts to surrounding properties.
To provide a variety of housing types and densities	The proposal will enhance the variety of housing types in the area providing increased affordable housing in the local area.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	Not applicable.
To maintain the existing land use pattern of predominately residential uses	The proposal is for a residential flat building to be used for the purpose of affordable housing.

The proposed variation also arises due to the provision of increased affordable housing on the site, and additional FSR available for this purpose, under the Housing SEPP. The proposal will facilitate a significant increase in affordable housing on the site.

Clause 4.6(4)(b) the concurrence of the Secretary has been obtained

Clause 4.6 requires the concurrence of the Secretary of the Department of Planning, Industry and Environment. However, all consent authorities have been granted assumed concurrence under *Planning Circular PS 20-002 Variations to Development Standards* (5 May 2020). The assumed concurrence includes a condition that numerical standards (such as height of buildings) cannot be varied by greater than 10% if determined by a delegated authority. It is noted that this restriction does not apply where the Council or Planning Panel is the decision maker. Accordingly, the assumed concurrence applies, and the concurrence of the Secretary is not required.

5.2 Consideration of the 'five part test'

The Department of Planning, Industry and Environment has issued Varying Development Standards – A Guide 2011 to assist applicants applying to vary development standards. The guide sets out a 'five part test' which has been established by the NSW Land and Environment Court which may be considered in applying Clause 4.6 to determine whether the objection to the development standard is well founded. The 'five part test' establishes a number of ways that variations to development standards can be justified. A Clause 4.6 application is not required to meet all of the tests.

Table 3: Consideration of 'five part test'

Objective	Consideration
The objectives of the standard are achieved notwithstanding non-compliance with the standard	The objectives of Clause 4.3 Height of Buildings can still be achieved, as outlined at Table 1, notwithstanding the non-compliance.

The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary	This test is not applicable in this instance.
The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable	This test is not applicable in this instance.
The development standard has been virtually abandoned or destroyed by council's own actions in granting consents departing from the standard.	This test is not applicable in this instance.
The compliance with the development standard is unreasonable or inappropriate due to the existing use of the land and current character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.	Compliance with the standard is unreasonable in this instance as minor variation results from the provision of increased public benefit through additional affordable housing on the site and does not result in any significant impacts. The building height non-compliance does not result in an exceedance of the maximum 2.25:1: FSR under the Sydney LEP and Housing SEPP.

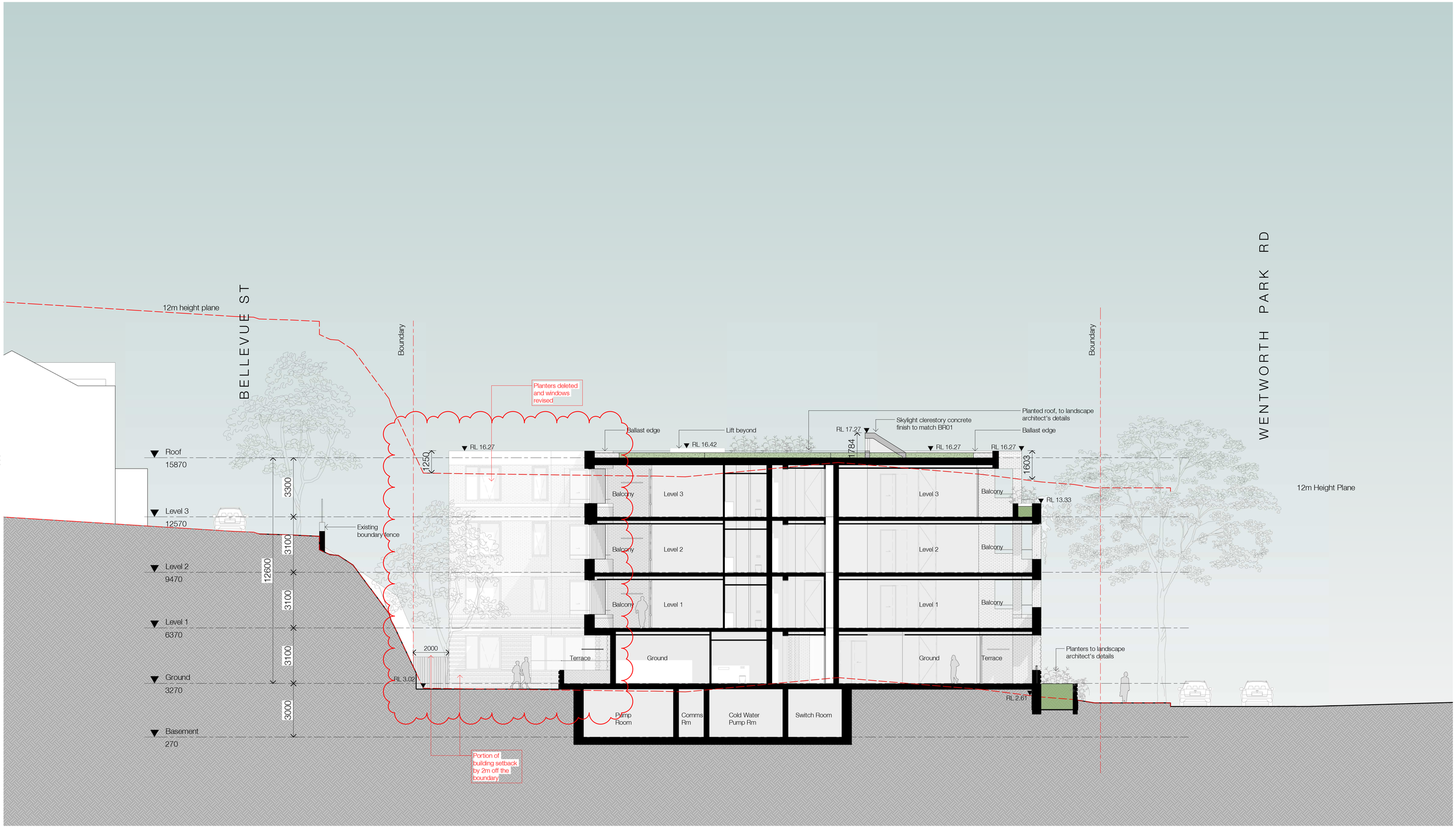
6 Conclusion

In summary the proposed variation to the maximum height of buildings control to allow a four-storey building on the site is justified on the basis that:

- The extent of the building height non-compliance is minor with the building height variance generally 1.2m (10%), with a small portion of at highest point of the proposed building exceeding the height limit by not more than 2.2m (18.3%) for a small portion of the building.
- The building height non-compliance is required to accommodate the required flood planning levels along Wentworth Park Road which is subject to the 1% AEP flood event.
- The proposed non-compliance is contained in a recessed upper level that will not impact on the adjoining residential properties to the southwest or southeast of the site. The clerestory skylights have been carefully located and integrated with the roof design to minimise impacts, such as views and overshadowing.
- The proposal will not significantly impact views from properties on Bellevue Street, or public views from Wentworth Park.
- The proposal represents an appropriate built form on the site and is compatible with surrounding built form character and does not impact the significance of the heritage conservation area.
- The proposal accommodates new and increased affordable housing on the site - essential social infrastructure and is consistent with the objectives of the Housing SEPP and the City of Sydney's LSPS. The minor height variation facilitates an additional 11 affordable housing dwellings on the site within a wholly affordable housing development.
- Visual and streetscape impacts will be negligible as the building is designed to appear as 3-storeys from Wentworth Park Road, with the upper-level setback and rooftop landscaping.
- Any additional overshadowing impacts will be minor and there would be no significant increased overshadowing to adjoining dwellings. All adjoining dwellings maintain a minimum of 2 hours of solar access in mid-winter.

On this basis the variation is considered to be appropriate, justified and in the public interest.

Appendix A Cross sections



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1	2022-05-02	DRAFT Concept	YC	
2	2022-08-19	DRAFT DA	YC	
3	2022-10-07	FOR CLIENT APPROVAL	YC	
4	2022-12-07	DA ISSUE - FOR FINAL COORDINATION	YC	
5	2023-07-27	COUNCIL RFI 2 - Skylights Added		
6	2023-08-10	COUNCIL RFI UPDATE	YC	
7	2023-11-08	RFI - BOUNDARY SETBACK	YC	
8	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

Nominated Architects: Adam Haddow-7188 | John Pradel-7004

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Project
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82 Wentworth Park Road, Glebe

Drawing Name
SECTION - A

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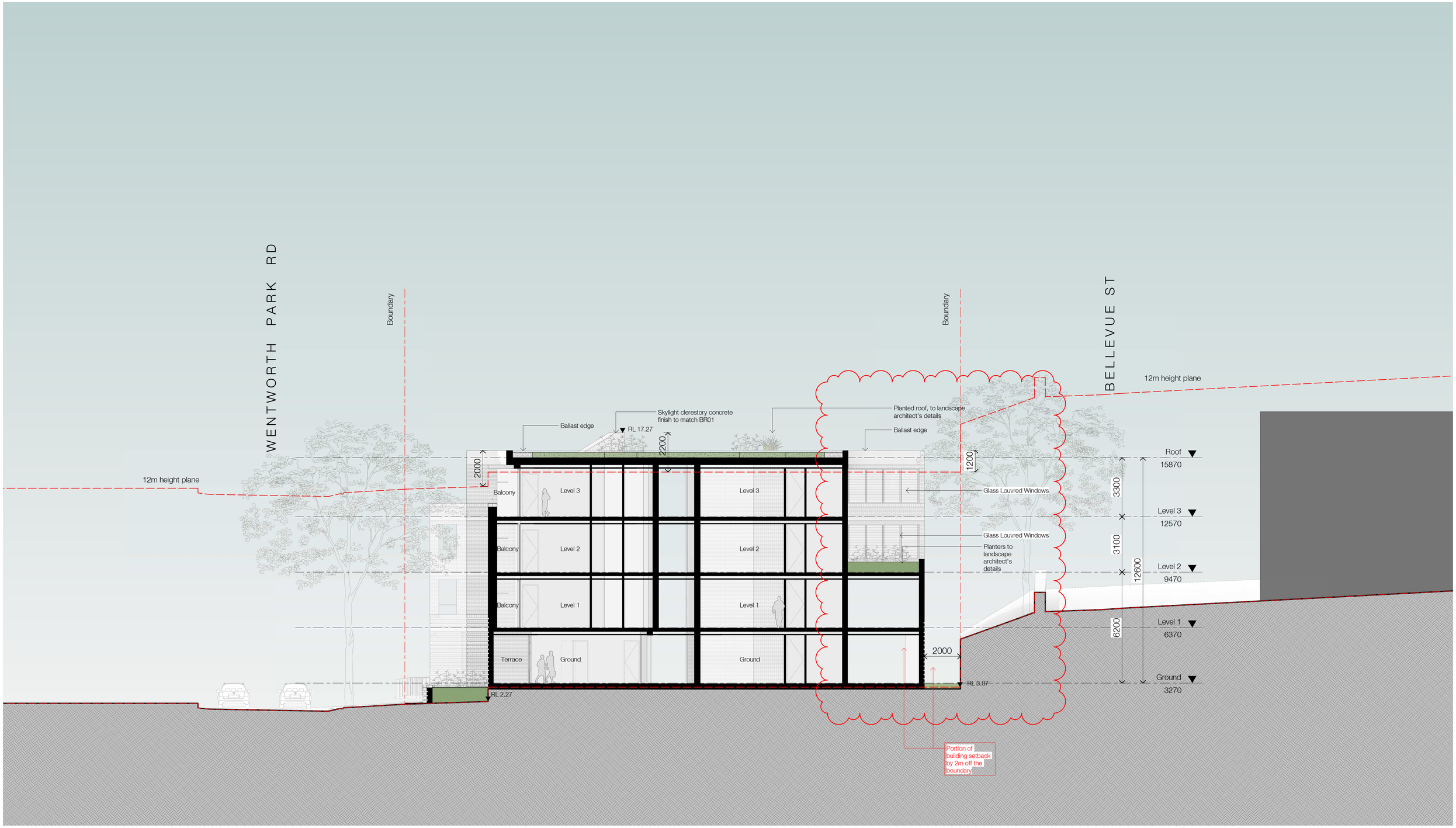

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3	2022-12-07	DA ISSUE - FOR FINAL COORDINATION	YC	
4	2023-07-27	COUNCIL RFI 2 - Skylights Added		
5	2023-08-10	COUNCIL RFI UPDATE	YC	
6	2023-09-06	UNIT G.02 LAYOUT REVERTED	YC	
7	2023-11-08	RFI - BOUNDARY SETBACK	YC	
8	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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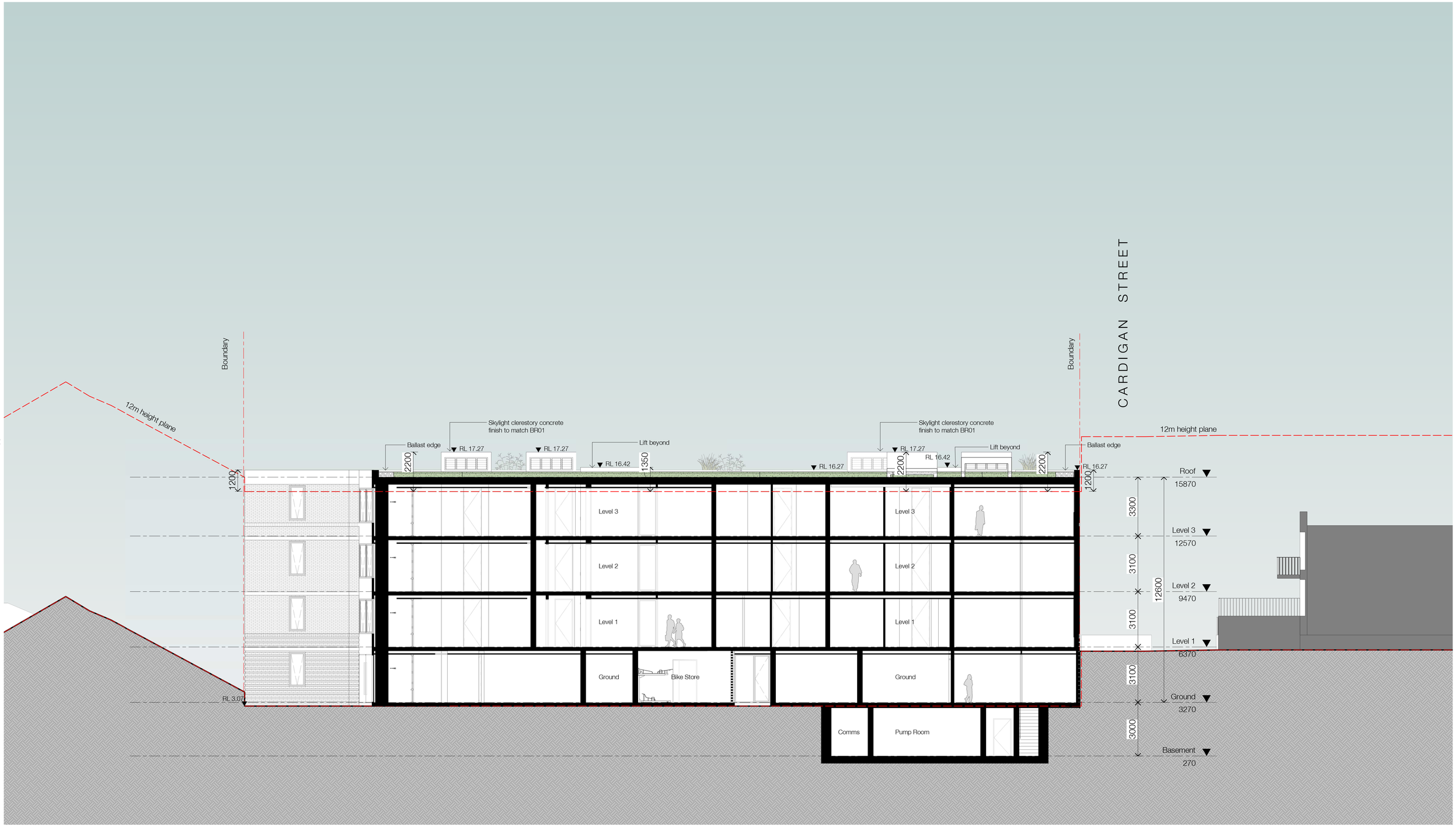

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3	2022-12-07	DA ISSUE - FOR FINAL COORDINATION	YC	
4	2023-07-27	COUNCIL RFI 2 - Skylights Added		
5	2023-08-10	COUNCIL RFI UPDATE	YC	
6	2023-11-10	UNIT 1.09 WINDOWS REMOVED	YC	

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Attachment D

Clause 4.6 Variation Request – Landscaped Area



Clause 4.6 Variation Request

Non-discretionary development standard – Landscaped area

82 Wentworth Park Road, Glebe

Prepared on behalf of:

NSW LAHC

FPDplanning

Document control

Authors

Reviewed by	Michael File, Director
Prepared by	Katrina Burley, Associate

Project summary

Applicant	NSW Land and Housing Corporation
Land to be developed	82 Wentworth Park Road, Glebe
Legal description	Lot 1-4 DP82924
Project description	Clause 4.6 variation request for variation to landscaped area provisions in Clause 18(2)(b) of the Housing SEPP.

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1 Introduction

This report has been prepared to request a variation to a non-discretionary development standard within Clause 18 of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) in in connection with a development application for a residential flat building for the purpose of affordable housing (to be managed as 100% social housing by NSW LAHC) at 82 Wentworth Park Road, Glebe.

Clause 18 (2) (b) of the Housing SEPP contains a non-discretionary developments standard for landscaped area where development is undertaken by a social housing provider.

In accordance with Section 4.15 (3(b) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), a provision in an environmental planning instrument that allows flexibility in the application of a development standard may be applied to a non-discretionary development standard.

Clause 4.6 of the *Sydney Local Environmental Plan 2012* (Sydney LEP) provides flexibility in applying certain development standards to particular development and allows for consent to be granted to development that does not comply with a development standard in the Sydney LEP or any other environmental planning instrument.

The site is currently zoned R1 General Residential under the Sydney LEP and the following built form controls apply:

- FSR of 1.75:1
- Maximum height of 12m

Clause 18 (2) (b) of the Housing SEPP contains a non-discretionary development standard for landscaped area in relation to an application made by a social housing provider. The non-discretionary standard in the Housing SEPP is to provide at least 35sqm of landscaped area per dwelling.

The proposal provides for 398sqm of landscaped area, including generous front landscaped setbacks, compliant deep soil at 18% and 23% tree canopy cover, raised planters and landscaping within private open space areas. The proposal delivers significant landscaped area and a high-quality landscape outcome.

The proposal also includes a significant area of green roof with 733sqm of native landscaping provided on the roof level.

Clause 4.6 of the Sydney LEP includes provisions that allow the consent authority to vary development standards in certain circumstances. The objectives of clause 4.6 are:

- To provide an appropriate degree of flexibility in applying certain development standards to particular development.
- To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6 requires the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances.
- There are sufficient environmental planning grounds to justify contravening the development standard.

The Department of Planning, Industry and Environment has issued the *Guide to Varying Development Standards November 2023* to assist applicants in applying to vary development standards. The guide sets out five common ways which have been established by the NSW Land and Environment Court which may be considered in applying Clause 4.6 to determine whether the objection to the development standard is well founded. The matters have been considered and addressed by this report.

2 The site and proposed development

2.1 The site

The site is located at 82 Wentworth Park Road, Glebe, and is legally described as Lot 1- 4 DP82924. The site has an approximate site area of 1,633sqm.

The site is bound by Wentworth Park Road to the east, Bellevue Street to the west, Cardigan Street to the south and the Glebe and Wentworth Park railway viaducts to the north. The site is directly opposite Wentworth Park, a significant regional open space asset.

The site is occupied by 17 social housing dwellings comprising semi-detached dwellings and townhouses. The site has numerous trees within the boundary, particularly along on the northern and western boundary, and mature heritage-listed street trees are located along Wentworth Park Road.

To the rear of the site is a steep rock shelf between 3-10 metres high resulting in a significant level change to Bellevue Street in this location. Two to three storey residential terraces and Thomas Portley Reserve, a small local park and playground, are located on Bellevue Street.

To the south of the site is Cardigan Street and the carpark of the neighbouring commercial uses which are located in two storey buildings located between Cardigan Lane and Bellevue Street. A series of two storey terraces front Wentworth Park Road to the south of the site. The surrounding residential uses are predominantly low scale Victorian terraces and semi-detached housing or converted warehouse apartments.



Figure 1 Subject site

2.2 The proposal

The proposed development is for a four-storey residential apartment building providing 43 affordable housing dwellings. Key aspects of the proposal are described in further detail below.

The proposed development is for the construction of a four-storey residential apartment building for the provision of 43 affordable housing dwellings (100% affordable housing). Key aspects of the proposal are described below.

- 43 apartments within a residential flat building up to 4 storeys
- An apartment mix of 4 studio apartments, 29 x 1-bedroom apartments and 10 x 2 bedroom apartments.
- Landscaped setbacks and terrace style apartments facing Wentworth Park Road
- 44 resident bike parking spaces and 6 visitor bike parking spaces, and waste storage areas located at ground level
- 1 partial basement level accommodating building services
- Green roof and rooftop landscaping

No on-site car parking is proposed.



3 Extent of proposed variation

Clause 18 (2) (b) of the Housing SEPP contains a non-discretionary development standard for landscaped area in relation to an application made by a social housing provider.

The non-discretionary standard in the Housing SEPP is to provide at least 35sqm of landscaped area per dwelling.

Based on the rates in the Housing SEPP, 1,505sqm of landscaped area would need to be provided on site.

The proposal provides 398sqm of landscaped area, including generous front landscaped setbacks, communal open space, compliant deep soil at 18% and 23% tree canopy cover, raised planters and landscaped terraces.

The proposal also includes a green roof with 733sqm of native landscaping provided on the roof level.

The proposal delivers significant landscaped area and a high-quality landscape outcome. The provision of landscaped area is considered appropriate for the site as it delivers significant green space and landscaping on site while balancing the need for renewal to increase the amount of affordable housing provided on site.

The proposal also provides for the retention of high value street trees and new tree plantings which will provide enhanced greening of the site and surrounding streets.

The site is also located close to extensive open space and recreation areas including Wentworth Park, which is approximately 15 hectares, and located opposite the site providing access to extensive green space and regional level open space.

This non-compliance results in a variation to the landscaped area in Clause 18 (2) (b) of the Housing SEPP to facilitate the renewal and increase in affordable housing on the site. The proposal delivers a high-quality landscape outcome, with significant greening across the site and deep soil and tree canopy cover exceeding the requirements in the Sydney DCP and ADG.

4 Justification for the proposed variation

This section of the report provides consideration of the requirements of Clause 4.6 and the matters set out in the *Guide to Varying Development Standards November 2023.*

4.1 How is compliance with the development standard is unreasonable or unnecessary in the circumstances of this particular case?

Compliance with the development standard is considered unreasonable and unnecessary in this instance as it is consistent with Clause 3 'Principles of Policy' in the Housing SEPP and the objectives of the R1 General Residential zone.

As demonstrated in Table 2 and Table 3 the objectives are achieved notwithstanding non-compliance. This is consistent with the five-part test established in *Wehbe vs Pittwater a*nd one of the five ways that compliance can be demonstrated to be unreasonable or unnecessary in the *Guide to Varying Development Standards* (refer to Table 1).

The Department of Planning, Industry and Environment has issued the *Guide to Varying Development Standards November 2023* to assist applicants applying to vary development standards. The guide sets out five common ways that compliance with a development standard may be demonstrated to be unreasonable or unnecessary as established by the NSW Land and Environment Court in determining whether the objection to the development standard is well founded. A Clause 4.6 application is not required to meet all of the tests.

Table 1: Five ways to demonstrate compliance is unreasonable or unnecessary

Objective	Consideration
The objectives of the standard are achieved notwithstanding non-compliance with the standard	The objectives of Clause 3 Principles of Policy of the Housing SEPP and the objectives of the R1 General Residential zone can be achieved, as outlined at Table 2 and Table 3 notwithstanding the non-compliance.
The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary	This test is not applicable in this instance.
The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable	Compliance with the landscaped area in the Housing SEPP is considered unreasonable as it would impact on the provision and delivery of affordable housing on site. The proposal aims to maximise the amount of affordable housing provided on site, while ensuring a high-quality landscape outcome and amenity for residents.
The development standard has been virtually abandoned or destroyed by council's own actions in granting consents departing from the standard.	This test is not applicable in this instance.
The compliance with the development standard is unreasonable or inappropriate due to the existing use of the land and current character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.	This test is not applicable in this instance.

The proposed development is consistent with the principles of the Housing SEPP and the objectives of the R1 General Residential zone as outlined in Table 2 and Table 3.

Table 2: Consideration of Clause 3 Principles of Policy in the Housing SEPP

Objective	Consideration
Enabling the development of diverse housing types, including purpose-built rental housing,	The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
Encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability	The proposal will enhance the variety of housing types in the area providing increased affordable housing in the local area. The proposal is for a residential flat building to be used for the purpose of affordable housing.
Ensuring new housing development provides residents with a reasonable level of amenity,	The proposal ensures that housing meets current accessibility and amenity standards, delivering a positive impact. The proposal provides for 398sqm of landscaped areas (almost 70% of the site area) and complies with the minimum deep soil and tree canopy targets in the Sydney DCP and ADG. The proposal provides large communal open space areas at the rear of site which will provide excellent amenity and outlook for residents. The proposal is opposite Wentworth Park providing access to regional open space within easy walking distance. The proposal complies with the solar access requirements and cross ventilation requirements in the ADG, ensuring a high level of amenity for residents.
Promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,	The site is extremely well serviced and in area and has excellent access to a range of social services and infrastructure. The site is opposite Wentworth Park, a significant regional open space, is within a 5-minute walk to the Glebe light rail stop, providing high frequency public transport services to the CBD and Central Station. Bus services are also available a short walk from the site on Pyrmont Bridge Road. The site also within 400-500m to Glebe Point Road high street which provides an extensive array of local shops and services, including Glebe library and local services.
Minimising adverse climate and environmental impacts of new housing development,	The proposal provides a total of 18% deep soil (23% when front setbacks included) and 23% tree canopy cover within the site boundary.
Reinforcing the importance of designing housing in a way that reflects and enhances its locality,	The proposal has been designed to respond to the local context and character. The proposal represents

	an appropriate built form on the site and is compatible with surrounding built form character.
Supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,	Not applicable
Mitigating the loss of existing affordable rental housing.	The proposal will deliver significant public benefit in the form of renewed and increased supply of affordable housing within the local area. The proposal will significantly increase affordable housing on the site, increasing from 17 existing social housing dwellings to 43 modern and accessible affordable housing dwellings.

Table 3 Consideration of objectives of the R1 General Residential zone

Objective	Consideration
To provide for the housing needs of the community	The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
To provide a variety of housing types and densities	The proposal will enhance the variety of housing types in the area and provide increased affordable housing in the local area.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	Not applicable.
To maintain the existing land use pattern of predominately residential uses	The proposal is for a residential flat building to be used for the purpose of affordable housing.

The proposal aims to maximise the provision of affordable housing on the site while delivering high quality landscape and amenity outcomes.

The proposal provides 398sqm of landscaped area, including generous front landscaped setbacks, communal open space, compliant deep soil at 18% and 23% tree canopy cover, raised planters and landscaped terraces. The proposal delivers significant landscaped area and a high-quality landscape outcome.

The proposal also includes a green roof with 733sqm of native landscaping provided on the roof level.

The variation to the non-discretionary development standard in Clause 18 (2) (b) of the Housing SEPP will not impact on the ability of the proposal to achieve the principles of the Housing SEPP or meet the objectives of the R1 General Residential zone.

4.2 Are there sufficient environmental planning grounds to justify contravening the development standard?

As outlined below, there are sufficient environmental planning grounds to justify the variation to the landscaped area in the Housing SEPP in this instance.

The provision of landscaped area is considered appropriate for the site as it delivers significant green space and landscaping on site while balancing the need for renewal of the site to provide more affordable housing.

The proposal provides 398sqm of landscaped area, including generous front landscaped setbacks, communal open space, compliant deep soil at 18% and 23% tree canopy cover, raised planters and landscaped terraces. The proposal delivers significant landscaped area and a high-quality landscape outcome.

The proposal also includes a green roof with 733sqm of native landscaping provided on the roof level.

The Landscape Plans demonstrate the proposal complies with the ADG and Sydney DCP requirements which include:

- A minimum of 10% of the site area as deep soil
- At least 15% of the total site area as canopy cover within 10 years of development

The proposal provides for a 18% deep soil (in accordance with DCP spatial requirements) while also providing additional deep soils areas in the front setbacks to total 23% deep soil across the site.

The proposal also provides for the retention of high value street trees and new tree plantings which will provide enhanced greening of the site and surrounding streets.

The site is also located close to extensive open space and recreation areas including Wentworth Park which is located opposite the site which provides access to extensive green space and regional level open space.

In summary, the non-compliance with the landscaped area in the Housing SEPP is justified for the following reasons:

- The proposal will promote the delivery of new and increased affordable housing on the site.
- The proposal complies with the deep soil and tree canopy requirements in the Sydney DCP.
- The proposed landscaped areas provide for significant greening of the sure and high-quality landscaped areas for residents to enjoy.
- The proposal also includes a large green roof with 733sqm of native planting that will deliver enhanced amenity and landscaping outcomes on the site.
- The site has excellent connections to open space and green space, with the site located opposite Wentworth Park.

5 Conclusion

In summary the proposed variation to the landscaped area provisions in the Housing SEPP is considered to be justified on the basis that:

- The proposal will deliver new and increased affordable housing on the site, more than doubling the number of dwellings on site to be managed by NSW as social housing.
- The proposal complies with the deep soil and tree canopy requirements in the Sydney DCP.
- The proposal provides over 398sqm of landscaped area across the site providing a high-quality landscape outcome and excellent amenity for residents.
- The proposal also includes a large green roof with 733sqm of native planting that will deliver enhanced amenity and landscaping outcomes on the site.
- The site has excellent connections to open space and green space, being located opposite Wentworth Park which is a 15-hectare regional open space asset.
- The proposal also provides for the retention of high value street trees and new tree plantings which will provide enhanced greening of the site and surrounding streets.

On this basis the variation is appropriate and justified.

Attachment E

Clause 4.6 Variation Request – Solar Access



Clause 4.6 Variation Request

Non-discretionary development standard – Solar access

82 Wentworth Park Road, Glebe

Prepared on behalf of:

NSW LAHC

FPDplanning

Document control

Authors

Reviewed by	Michael File, Director
Prepared by	Katrina Burley, Associate

Project summary

Applicant	NSW Land and Housing Corporation
Land to be developed	82 Wentworth Park Road, Glebe
Legal description	Lot 1-4 DP82924
Project description	Clause 4.6 variation request for variation to solar access provisions in Clause 18(2)(e) of the Housing SEPP.

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1 Introduction

This report has been prepared to request a variation to a non-discretionary development standard within Clause 18 of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) in in connection with a development application for a residential flat building for the purpose of affordable housing (to be managed as 100% social housing by NSW LAHC) at 82 Wentworth Park Road, Glebe.

Clause 18 (2) (e) of the Housing SEPP contains a non-discretionary development standard for solar access.

In accordance with Section 4.15 (3(b) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), a provision in an environmental planning instrument that allows flexibility in the application of a development standard may be applied to a non-discretionary development standard.

Clause 4.6 of the *Sydney Local Environmental Plan 2012* (Sydney LEP) provides flexibility in applying certain development standards to particular development and allows for consent to be granted to development that does not comply with a development standard in the Sydney LEP or any other environmental planning instrument.

The site is currently zoned R1 General Residential under the Sydney LEP and the following built form controls apply:

- FSR of 1.75:1
- Maximum height of 12m

The non-discretionary standard in Clause 18 (2) (e) of the Housing SEPP requires living rooms and private open spaces in at least 70% of the dwellings to receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter.

The proposal achieves solar access to 35% of dwellings for a minimum of 3 hours between 9am and 3pm.

The proposal has been designed to comply with solar access criteria in the Apartment Design Guide, which requires at least 2 hours of solar access to 70% of apartments in mid-winter. The proposal achieves excellent solar access, with 81% of all apartments receiving at least 2 hours of solar access in mid-winter.

Clause 4.6 of the Sydney LEP includes provisions that allow the consent authority to vary development standards in certain circumstances. The objectives of clause 4.6 are:

- To provide an appropriate degree of flexibility in applying certain development standards to particular development.
- To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6 requires the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances.
- There are sufficient environmental planning grounds to justify contravening the development standard.

The Department of Planning, Industry and Environment has issued the *Guide to Varying Development Standards November 2023* to assist applicants in applying to vary development standards. The guide sets out five common ways which have been established by the NSW Land and Environment Court which may be considered in applying Clause 4.6 to determine whether the objection to the development standard is well founded. The matters have been considered and addressed by this report.

2 The site and proposed development

2.1 The site

The site is located at 82 Wentworth Park Road, Glebe, and is legally described as Lot 1- 4 DP82924. The site has an approximate site area of 1,633sqm.

The site is bound by Wentworth Park Road to the east, Bellevue Street to the west, Cardigan Street to the south and the Glebe and Wentworth Park railway viaducts to the north. The site is directly opposite Wentworth Park, a significant regional open space asset.

The site is occupied by 17 social housing dwellings comprising semi-detached dwellings and townhouses. The site has numerous trees within the boundary, particularly along on the northern and western boundary, and mature heritage-listed street trees are located along Wentworth Park Road.

To the rear of the site is a steep rock shelf between 3-10 metres high resulting in a significant level change to Bellevue Street in this location. Two to three storey residential terraces and Thomas Portley Reserve, a small local park and playground, are located on Bellevue Street.

To the south of the site is Cardigan Street and the carpark of the neighbouring commercial uses which are located in two storey buildings located between Cardigan Lane and Bellevue Street. A series of two storey terraces front Wentworth Park Road to the south of the site. The surrounding residential uses are predominantly low scale Victorian terraces and semi-detached housing or converted warehouse apartments.



Figure 1 Subject site

2.2 The proposal

The proposed development is for a four-storey residential apartment building providing 43 affordable housing dwellings. Key aspects of the proposal are described in further detail below.

The proposed development is for the construction of a four-storey residential apartment building for the provision of 43 affordable housing dwellings (100% affordable housing). Key aspects of the proposal are described below.

- 43 apartments within a residential flat building up to 4 storeys
- An apartment mix of 4 studio apartments, 29 x 1-bedroom apartments and 10 x 2 bedroom apartments.
- Landscaped setbacks and terrace style apartments facing Wentworth Park Road
- 44 resident bike parking spaces and 6 visitor bike parking spaces, and waste storage areas located at ground level
- 1 partial basement level accommodating building services
- Green roof and rooftop landscaping

No on-site car parking is proposed.



3 Extent of proposed variation

Clause 18 (2) (e) of the Housing SEPP contains a non-discretionary development standard which requires living rooms and private open spaces in at least 70% of the dwellings to receive at least 3 hours of direct solar access between 9am and 3pm at mid-winter.

The proposal achieves solar access to 35% of dwellings for a minimum of 3 hours between 9am and 3pm.

The proposal has been designed to comply with solar access criteria in the Apartment Design Guide, which requires at least 2 hours of solar access to 70% of apartments in mid-winter.

The proposal achieves excellent solar access, with 81% of all apartments receiving at least 2 hours of solar access in mid-winter.

Achieving compliance with the solar access criteria in the ADG is considered appropriate for residential apartment development over 3 storeys and is the industry standard for achieving a high level of amenity to residential apartments. It is noted that SEPP 65 and the ADG continue to apply to in-fill affordable housing development undertaken in accordance with the Housing SEPP.

The proposal has been designed to ensure the number of apartments oriented to the north and north-west is maximised, within only a limited number of single aspects south facing apartments at the rear of the site. Apartments at the rear of the site have been designed with outlook to communal open space and landscaped areas to provide a high level of amenity.

This non-compliance results in a variation to the solar access provisions in Clause 18 (2) (e) of the Housing SEPP to facilitate the renewal and increase in affordable housing on the site. The proposal provides excellent amenity, with the proposal exceeding the minimum solar access requirements in the ADG.

4 Justification for the proposed variation

This section of the report provides consideration of the requirements of Clause 4.6 and the matters set out in the *Guide to Varying Development Standards November 2023.*

4.1 How is compliance with the development standard is unreasonable or unnecessary in the circumstances of this particular case?

Compliance with the development standard is considered unreasonable and unnecessary in this instance as it is consistent with Clause 3 'Principles of Policy' in the Housing SEPP and the objectives of the R1 General Residential zone.

As demonstrated in Table 2 and Table 3 the objectives are achieved notwithstanding non-compliance. This is consistent with the five-part test established in *Wehbe vs Pittwater a*nd one of the five ways that compliance can be demonstrated to be unreasonable or unnecessary in the *Guide to Varying Development Standards* (refer to Table 1).

The Department of Planning, Industry and Environment has issued the *Guide to Varying Development Standards November 2023* to assist applicants applying to vary development standards. The guide sets out five common ways that compliance with a development standard may be demonstrated to be unreasonable or unnecessary as established by the NSW Land and Environment Court in determining whether the objection to the development standard is well founded. A Clause 4.6 application is not required to meet all of the tests.

Table 1: Five ways to demonstrate compliance is unreasonable or unnecessary

Objective	Consideration
The objectives of the standard are achieved notwithstanding non-compliance with the standard	The objectives of Clause 3 Principles of Policy of the Housing SEPP and the objectives of the R1 General Residential zone can be achieved, as outlined at Table 2 and Table 3 notwithstanding the non-compliance.
The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary	This test is not applicable in this instance.
The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable	Compliance with the solar access standard in the Housing SEPP is considered unreasonable as it would impact on the provision and delivery of affordable housing on site. The proposal aims to maximise the amount of affordable housing provided on site, while ensuring a high level of solar access and compliance with the solar access criteria in the ADG.
The development standard has been virtually abandoned or destroyed by council's own actions in granting consents departing from the standard.	This test is not applicable in this instance.
The compliance with the development standard is unreasonable or inappropriate due to the existing use of the land and current character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.	This test is not applicable in this instance.

The proposed development is consistent with the principles of the Housing SEPP and the objectives of the R1 General Residential zone as outlined in Table 2 and Table 3.

Table 2: Consideration of Clause 3 Principles of Policy in the Housing SEPP

Objective	Consideration
Enabling the development of diverse housing types, including purpose-built rental housing,	The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
Encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability	The proposal will enhance the variety of housing types in the area providing increased affordable housing in the local area. The proposal is for a residential flat building to be used for the purpose of affordable housing.
Ensuring new housing development provides residents with a reasonable level of amenity,	The proposal ensures that housing meets current accessibility and amenity standards, delivering a positive impact. The proposal complies with the solar access requirements and cross ventilation requirements in the ADG, ensuring a high level of amenity for residents. The proposal achieves at least 2 hours solar access to 81% of apartments in mid-winter, exceeding the requirements in the ADG.
Promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,	The site is extremely well serviced and in area and has excellent access to a range of social services and infrastructure. The site is opposite Wentworth Park, a significant regional open space, is within a 5-minute walk to the Glebe light rail stop, providing high frequency public transport services to the CBD and Central Station. Bus services are also available a short walk from the site on Pyrmont Bridge Road. The site also within 400-500m to Glebe Point Road high street which provides an extensive array of local shops and services, including Glebe library and local services.
Minimising adverse climate and environmental impacts of new housing development,	The proposal provides a high level of amenity, with high levels of solar access and natural ventilation to apartments, and generous deep soil and tree canopy cover provided on site.
Reinforcing the importance of designing housing in a way that reflects and enhances its locality,	The proposal has been designed to respond to the local context and character. The proposal represents an appropriate built form on the site and is compatible with surrounding built form character.
Supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,	Not applicable

Mitigating the loss of existing affordable rental housing.	The proposal will deliver significant public benefit in the form of renewed and increased supply of affordable housing within the local area. The proposal will significantly increase affordable housing on the site, increasing from 17 existing social housing dwellings to 43 modern and accessible affordable housing dwellings.

Table 3 Consideration of objectives of the R1 General Residential zone

Objective	Consideration
To provide for the housing needs of the community	The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
To provide a variety of housing types and densities	The proposal will enhance the variety of housing types in the area and provide increased affordable housing in the local area.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	Not applicable.
To maintain the existing land use pattern of predominately residential uses	The proposal is for a residential flat building to be used for the purpose of affordable housing.

It is not considered reasonable or necessary to comply with the non-discretionary solar access provisions in the Housing SEPP.

The proposal will increase the provision of affordable housing on the site while delivering a high level of amenity for residents. The proposal will significantly increase the amount of affordable housing (to be managed as social housing) in a highly accessible area with increasing demand for affordable housing.

The proposal exceeds the solar access requirements in the ADG, achieving solar access for more than 2 hours to over 80% of apartments in mid-winter.

Achieving compliance with the solar access criteria in the ADG is considered appropriate for residential apartment development over 3 storeys and is the industry standard for achieving a high level of amenity to residential apartments. It is noted that SEPP 65 and the ADG continue to apply to in-fill affordable housing development undertaken in accordance with the Housing SEPP.

The variation to the non-discretionary development standard in Clause 18 (2) (e) of the Housing SEPP will not impact on the ability of the proposal to achieve the principles of the Housing SEPP or meet the objectives of the R1 General Residential zone.

4.2 Are there sufficient environmental planning grounds to justify contravening the development standard?

As outlined below, there are sufficient environmental planning grounds to justify the variation to the landscaped area in the Housing SEPP in this instance.

The proposal has been designed to comply with solar access criteria in the ADG, which requires at least 2 hours of solar access to 70% of apartments in mid-winter. The proposal achieves excellent solar access, with 81% of all apartments receiving at least 2 hours of solar access in mid-winter.

The proposal has been designed to ensure the number of apartments oriented to the north and north-west is maximised, within only a limited number of south facing apartments at the rear of the site. Apartments at the rear of the site have been designed with outlook to communal open space and landscaped areas to maximise daylight access and amenity.

In summary, the non-compliance with the solar access provisions in the Housing SEPP is justified for the following reasons:

- The proposal will promote the delivery of new and increased affordable housing on the site.
- The proposal will deliver a significant increase in affordable housing on the site, providing increased housing supply and more social housing in the local area.
- The proposal complies with the Design Quality Principles in SEPP 65 and solar access criteria in the ADG ensuring a high level of amenity and solar access to living rooms and private open space areas.
- The proposal achieves a high level of amenity and has been designed to maximise north facing apartments and ensure all apartments have outlook and access to daylight.

5 Conclusion

In summary the proposed variation to the solar access provisions in the Housing SEPP is considered to be justified on the basis that:

- The proposal will deliver new and increased affordable housing on the site, more than doubling the number of dwellings on site to be managed by NSW as social housing, which is particularly is important given the current housing crisis.
- The proposal complies with solar access criteria in the ADG, which requires at least 2 hours of solar access to 70% of apartments in mid-winter.
- The proposal achieves excellent solar access, with 81% of all apartments receiving at least 2 hours of solar access in mid-winter.
- The proposal has been designed to ensure the number of apartments oriented to the north and north-west is maximised, within only a limited number of south facing apartments at the rear of the site.
- The proposal complies with the Design Quality Principles in SEPP 65.
- The proposal achieves a high level of amenity and has been designed to maximise north facing apartments and ensure all apartments have outlook to communal open space / landscaping.

On this basis the variation is appropriate and justified.

Attachment F

Clause 4.6 Variation Request – Parking Spaces



Clause 4.6 Variation Request

Non-discretionary development standard - Parking

82 Wentworth Park Road, Glebe

Prepared on behalf of:

NSW LAHC

FPDplanning

FPDplanning

Document control

Authors

Reviewed by	Michael File, Director
Prepared by	Katrina Burley, Associate

Project summary

Applicant	NSW Land and Housing Corporation
Land to be developed	82 Wentworth Park Road, Glebe
Legal description	Lot 1-4 DP82924
Project description	Clause 4.6 variation request for variation to car parking provisions in Clause 18(2)(f) of the Housing SEPP.

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Figure 1 Subject site 7

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1 Introduction

This report has been prepared to request a variation to a non-discretionary development standard within Clause 18 of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) in in connection with a development application for a residential flat building for the purpose of affordable housing (to be managed as 100% social housing by NSW LAHC) at 82 Wentworth Park Road, Glebe.

Clause 18 (2) (f) of the Housing SEPP contains non-discretionary developments standards for parking spaces where development is undertaken by a social housing provider in an accessible location.

In accordance with Section 4.15 (3(b) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), a provision in an environmental planning instrument that allows flexibility in the application of a development standard may be applied to a non-discretionary development standard.

Clause 4.6 of the *Sydney Local Environmental Plan 2012* (Sydney LEP) provides flexibility in applying certain development standards to particular development and allows for consent to be granted to development that does not comply with a development standard in the Sydney LEP or any other environmental planning instrument.

The site is currently zoned R1 General Residential under the Sydney LEP and the following built form controls apply:

- FSR of 1.75:1
- Maximum height of 12m

Clause 18 (2) (f) of the Housing SEPP contains non-discretionary developments standards for parking spaces and sets out the following car parking rates for development undertaken by a social housing provider:

- for each dwelling containing 1 bedroom—at least 0.4 parking spaces, or
- for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, or
- for each dwelling containing at least 3 bedrooms— at least 1 parking space.

No car parking is proposed to be provided on site which is consistent with the use of maximum car parking rates in the Sydney LEP as well as LAHC's operational requirements. This approach is suitable given the sites excellent public transport accessibility and consistent with the approved NSW LAHC development at Cowper Street (currently under construction) which includes no on-site car parking.

Clause 4.6 of the Sydney LEP includes provisions that allow the consent authority to vary development standards in certain circumstances. The objectives of clause 4.6 are:

- To provide an appropriate degree of flexibility in applying certain development standards to particular development.
- To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Clause 4.6 requires the consent authority to consider a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:

- Compliance with the development standard is unreasonable or unnecessary in the circumstances.
- There are sufficient environmental planning grounds to justify contravening the development standard.

The Department of Planning, Industry and Environment has issued the *Guide to Varying Development Standards November 2023* to assist applicants in applying to vary development standards. The guide sets out five common ways which have been established by the NSW Land and Environment Court which may be considered in applying Clause 4.6 to determine whether the objection to the development standard is well founded. The matters have been considered and addressed by this report.

2 The site and proposed development

2.1 The site

The site is located at 82 Wentworth Park Road, Glebe, and is legally described as Lot 1- 4 DP82924. The site has an approximate site area of 1,633sqm.

The site is bound by Wentworth Park Road to the east, Bellevue Street to the west, Cardigan Street to the south and the Glebe and Wentworth Park railway viaducts to the north. The site is directly opposite Wentworth Park, a significant regional open space asset.

The site is occupied by 17 social housing dwellings comprising semi-detached dwellings and townhouses. The site has numerous trees within the boundary, particularly along on the northern and western boundary, and mature heritage-listed street trees are located along Wentworth Park Road.

To the rear of the site is a steep rock shelf between 3-10 metres high resulting in a significant level change to Bellevue Street in this location. Two to three storey residential terraces and Thomas Portley Reserve, a small local park and playground, are located on Bellevue Street.

To the south of the site is Cardigan Street and the carpark of the neighbouring commercial uses which are located in two storey buildings located between Cardigan Lane and Bellevue Street. A series of two storey terraces front Wentworth Park Road to the south of the site. The surrounding residential uses are predominantly low scale Victorian terraces and semi-detached housing or converted warehouse apartments.



Figure 1 Subject site

2.2 The proposal

The proposed development is for a four-storey residential apartment building providing 43 affordable housing dwellings. Key aspects of the proposal are described in further detail below.

The proposed development is for the construction of a four-storey residential apartment building for the provision of 43 affordable housing dwellings (100% affordable housing). Key aspects of the proposal are described below.

- 43 apartments within a residential flat building up to 4 storeys
- An apartment mix of 4 studio apartments, 29 x 1-bedroom apartments and 10 x 2 bedroom apartments.
- Landscaped setbacks and terrace style apartments facing Wentworth Park Road
- 44 resident bike parking spaces and 6 visitor bike parking spaces, and waste storage areas located at ground level
- 1 partial basement level accommodating building services
- Green roof and rooftop landscaping

No on-site car parking is proposed.



3 Extent of proposed variation

Clause 18 (2) (f) of the Housing SEPP contains non-discretionary developments standards for parking spaces and sets out the following car parking rates for development undertaken by a social housing provider:

- for each dwelling containing 1 bedroom—at least 0.4 parking spaces, or
- for each dwelling containing 2 bedrooms—at least 0.5 parking spaces, or
- for each dwelling containing at least 3 bedrooms— at least 1 parking space.

Based on the rates in the Housing SEPP, 18 parking spaces would need to be provided on site.

No car parking is proposed to be provided on site which is consistent with the use of maximum car parking rates in the Sydney LEP as well as LAHC's operational requirements.

This approach is suitable given the sites excellent public transport accessibility and consistent with the approved NSW LAHC development at Cowper Street (currently under construction) which includes no on-site car parking.

The proposal also includes bicycle parking in accordance with the Sydney DCP, providing 44 resident bike parking within the building at ground level and 6 visitor bike parking provided within the front setback along Wentworth Park Road.

The Traffic and Parking Report submitted as part of the development application and prepared by Transport and Traffic Planning Associates dated December 2022, outlines the suitability of providing no car parking for this site, as it is in very convenient proximity to public transport services (bus and light rail) as well as shopping/entertainment facilities in Glebe and the CBD, minimising the need for private vehicle use.

This non-compliance results in a variation to the car parking rates in Clause 18 (2) (f) of the Housing SEPP to facilitate the renewal and increase in affordable housing on the site and proposes no car parking in accordance with the maximum rates in the Sydney LEP. The proposal will facilitate the provision of 43 affordable housing dwellings on the site.

4 Justification for the proposed variation

This section of the report provides consideration of the requirements of Clause 4.6 and the matters set out in the *Guide to Varying Development Standards November 2023.*

4.1 How is compliance with the development standard is unreasonable or unnecessary in the circumstances of this particular case?

Compliance with the development standard is considered unreasonable and unnecessary in this instance as it is consistent with Clause 3 'Principles of Policy' in the Housing SEPP and the objectives of the R1 General Residential zone.

As demonstrated in Table 2 and Table 3 the objectives are achieved notwithstanding non-compliance. This is consistent with the five-part test established in *Wehbe vs Pittwater a*nd one of the five ways that compliance can be demonstrated to be unreasonable or unnecessary in the *Guide to Varying Development Standards* (refer to Table 1).

The Department of Planning, Industry and Environment has issued the *Guide to Varying Development Standards November 2023* to assist applicants applying to vary development standards. The guide sets out five common ways that compliance with a development standard may be demonstrated to be unreasonable or unnecessary as established by the NSW Land and Environment Court in determining whether the objection to the development standard is well founded. A Clause 4.6 application is not required to meet all of the tests.

Table 1: Five ways to demonstrate compliance is unreasonable or unnecessary

Objective	Consideration
The objectives of the standard are achieved notwithstanding non-compliance with the standard	The objectives of Clause 3 Principles of Policy of the Housing SEPP and the objectives of the R1 General Residential zone can be achieved, as outlined at 2 and 3 notwithstanding the non-compliance.
The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary	This test is not applicable in this instance.
The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable	Compliance with the car parking rates in the Housing SEPP is considered unreasonable as it would impact the provision and delivery of affordable housing on the site. The proposed approach to provide no on-site car parking is consistent with the use of maximum car parking rates in the Sydney LEP as well as LAHC's operational requirements and is suitable given the sites excellent public transport accessibility and proximity to a range of services and facilities.
The development standard has been virtually abandoned or destroyed by council's own actions in granting consents departing from the standard.	The approach is consistent with the NSW LAHC's social housing development at Cowper Street in Glebe which was approved by Council on 30 November 2021 and includes no parking on-site.
The compliance with the development standard is unreasonable or inappropriate due to the existing use of the land and current character of	This test is not applicable in this instance.

the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.	

The proposed development is consistent with the principles of the Housing SEPP and the objectives of the R1 General Residential zone as outlined in Table 2 and Table 3.

Table 2: Consideration of Clause 3 Principles of Policy in the Housing SEPP

Objective	Consideration
Enabling the development of diverse housing types, including purpose-built rental housing,	The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
Encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability	The proposal will enhance the variety of housing types in the area providing increased affordable housing in the local area. The proposal is for a residential flat building to be used for the purpose of affordable housing.
Ensuring new housing development provides residents with a reasonable level of amenity,	The proposal ensures that housing meets current accessibility and amenity standards, delivering a positive impact. The proposal complies with the solar access requirements and cross ventilation requirements in the ADG, ensuring a high level of amenity for residents. The proposed apartments are appropriately designed to meet tenants needs and includes an internal lift for better accessibility, and in an area with good access to services.
Promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,	The site is extremely well serviced and in area and has excellent access to a range of social services and infrastructure. The site is opposite Wentworth Park, a significant regional open space, is within a 5-minute walk to the Glebe light rail stop, providing high frequency public transport services to the CBD and Central Station. Bus services are also available a short walk from the site on Pyrmont Bridge Road. The site also within 400-500m to Glebe Point Road high street which provides an extensive array of local shops and services, including Glebe library and local services.
Minimising adverse climate and environmental impacts of new housing development,	The proposal proposes no on-site car parking which will result in positive environmental outcomes. The proposal provides 44 resident bike parking spaces, and is located close to public transport, promoting active and sustainable travel modes.
Reinforcing the importance of designing housing in a way that reflects and enhances its locality,	The proposal has been designed to respond to the local context and character. The proposal represents

	an appropriate built form on the site and is compatible with surrounding built form character.
Supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,	Not applicable
Mitigating the loss of existing affordable rental housing.	The proposal will deliver significant public benefit in the form of renewed and increased supply of affordable housing within the local area. The proposal will significantly increase affordable housing on the site, increasing from 17 existing social housing dwellings to 43 modern and accessible affordable housing dwellings.

Table 3 Consideration of objectives of the R1 General Residential zone

Objective	Consideration
To provide for the housing needs of the community	The proposal will provide the housing needs of the community through the delivery of 43 new affordable housing dwellings (an increase from the 17 social housing dwellings currently on the site).
To provide a variety of housing types and densities	The proposal will enhance the variety of housing types in the area and provide increased affordable housing in the local area.
To enable other land uses that provide facilities or services to meet the day to day needs of residents	Not applicable.
To maintain the existing land use pattern of predominately residential uses	The proposal is for a residential flat building to be used for the purpose of affordable housing.

It is not considered reasonable or necessary to comply with the non-discretionary standard for car parking in the Housing SEPP.

No car parking is proposed to be provided on site which is consistent with the use of maximum car parking rates in the Sydney LEP as well as LAHC's operational requirements. This approach is suitable given the sites excellent public transport accessibility.

The variation to the non-discretionary development standard in Clause 18 (2) (f) of the Housing SEPP will not impact on the ability of the proposal to achieve the principles of the Housing SEPP or meet the objectives of the R1 General Residential zone.

4.2 Are there sufficient environmental planning grounds to justify contravening the development standard?

As outlined below, there are sufficient environmental planning grounds to justify the variation to the car parking rates in the Housing SEPP in this instance.

No car parking is proposed to be provided on site which is consistent with maximum car parking rates in the Sydney LEP as well as NSW LAHCs operational requirements.

If the parking rates in Clause 18 of the Housing SEPP were complied with, the proposal would need to provide 18 on-site car parking spaces. This would impact the amount of new housing that could be provided on the site, add significant cost, and impact the design and layout of the proposal to accommodate parking on-site. It would also likely impact high value street trees along Wentworth Park Road to accommodate basement entry.

The proposal includes bicycle parking in accordance with the Sydney DCP, providing 44 resident bike parking within the building at ground level and 6 visitor bike parking provided within the front setback along Wentworth Park Road.

The Traffic and Parking Report prepared to support the development application outlines the suitability of providing no car parking for this site, as it is in very convenient proximity to public transport services (bus and light rail) as well as shopping/entertainment facilities in Glebe and the CBD, minimising the need for private vehicle use.

In summary, the non-compliance with the car parking rates in the Housing SEPP is justified for the following reasons:

- The proposal will promote the delivery of new and increased affordable housing on the site.
- The site has good connections to public transport and minimising car parking provision further encourages users to travel via sustainable modes.
- The proposal complies with the minimum bicycle parking rates in the Sydney DCP.
- The approach to car parking is consistent with NSW LAHC's approved development on Cowper Street which included no on-site car parking, consistent with the surrounding area and Council's objective to 'minimise the amount of vehicular traffic generated because of proposed development'.
- The proposal will facilitate sustainable development outcomes, by promoting sustainable travel modes and public transport use.

5 Conclusion

In summary the proposed variation to parking rates in the Housing SEPP is considered to be justified on the basis that:

- The proposal will deliver new and increased affordable housing on the site, more than doubling the number of dwellings on site to be managed by NSW as social housing.
- The proposal is consistent with the use maximum car parking rates in the Sydney LEP and objectives to minimise traffic generation in the City of Sydney LGA.
- The approach to car parking is consistent with NSW LAHC's approved development on Cowper Street which included no on-site car parking, consistent with the surrounding area and Council's objective to 'minimise the amount of vehicular traffic generated because of proposed development'.
- The proposal includes bicycle parking in accordance with the Sydney DCP, providing 44 resident bike parking within the building at ground level and 6 visitor bike parking provided within the front setback along Wentworth Park Road.
- The Traffic and Parking Report prepared to support the development application outlines the suitability of providing no car parking for this site, as it is in very convenient proximity to public transport services (bus and light rail) as well as shopping/entertainment facilities in Glebe and the CBD, minimising the need for private vehicle use.
- The site has excellent connections to public transport and minimising car parking provision further encourages more sustainable transport modes, improving environmental and sustainability outcomes.

On this basis the variation is appropriate and justified.

Attachment G

View Impact Assessment

82 Wentworth Park Rd, Glebe, NSW

Visual impact photomontage and methodology report

10th November 2023

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VIRTUAL IDEAS

1. INTRODUCTION

This document was prepared by Virtual Ideas to demonstrate the visual impact of the proposed development for 82 Wentworth Park Rd, Glebe, NSW with respect to the existing and future built form and site context.

2. VIRTUAL IDEAS EXPERTISE

Virtual Ideas is an architectural visualisation company that has over 15 years experience in preparing visual impact assessment content and reports on projects of major significance that meet the requirements for relevant local and state planning authorities.

Our reports have been submitted as evidence in proceedings in both the Land and Environment Court and the Supreme Court of NSW. Our director, Grant Kolln, has been an expert witness in the field of visual impact assessment in the Supreme Court of NSW.

Virtual Ideas' methodologies and outcomes have been inspected by various court appointed experts in relation to previous visual impact assessment submissions, and have always been found to be accurate and acceptable.

3. PHOTOMONTAGE METHODOLOGY

The following describes the process that we undertake to create the photomontages that form the basis of this report.

3.1 DIGITAL 3D SCENE CREATION

The first step in our process is the creation of an accurate, real world scale digital 3D scene that is positioned at a common reference points using the MGA 56 GDA 2020 coordinates system.

To do this we use a variety of data that we import into our 3D scene. Examples of these data sources are 3D models of existing and proposed buildings, site surveys, and photogrametric city models. A detailed description of the data sources used in this report can be found in Appendix A, B and C.

When we receive data sources that are not positioned to MGA-56 GDA 2020 coordinates, we use common points in the data sources that can be aligned to points in other data sources that are positioned at MGA-56 GDA2020. This can be data such as site boundaries and building outlines.

3.2 SITE PHOTOGRAPHY

The site photography was captured from viewpoint locations that were nominated by the NSW Government. The viewpoint locations are shown on the viewpoint map in Section 4 of this document.

Camera lenses for photography are chosen taking a variety of factors into consideration including the distance from the site and the size of the proposed development with respect to the existing built form and landscape.

In some cases, photography using a 50mm lens may produce the most effective photomontage due to this lens' close representation of distance perception. In many cases, a 50mm lens cannot capture enough surrounding context and in these cases we consider that using a wider lens is more appropriate.

Full metadata of the photographs was recorded during the site photography. The critical data we extracted was date, time and lens information.

3.3 ALIGNMENT OF 3D SCENE

To align the 3D scene to the correct geographical location, we used the following data:

Using a supplied site survey, we were able to align the site boundaries of the proposed buildings to the geo-referenced data.

Cameras were aligned to surveyed positions that were supplied by CMS Surveyors at MGA-56 GDA 2020.

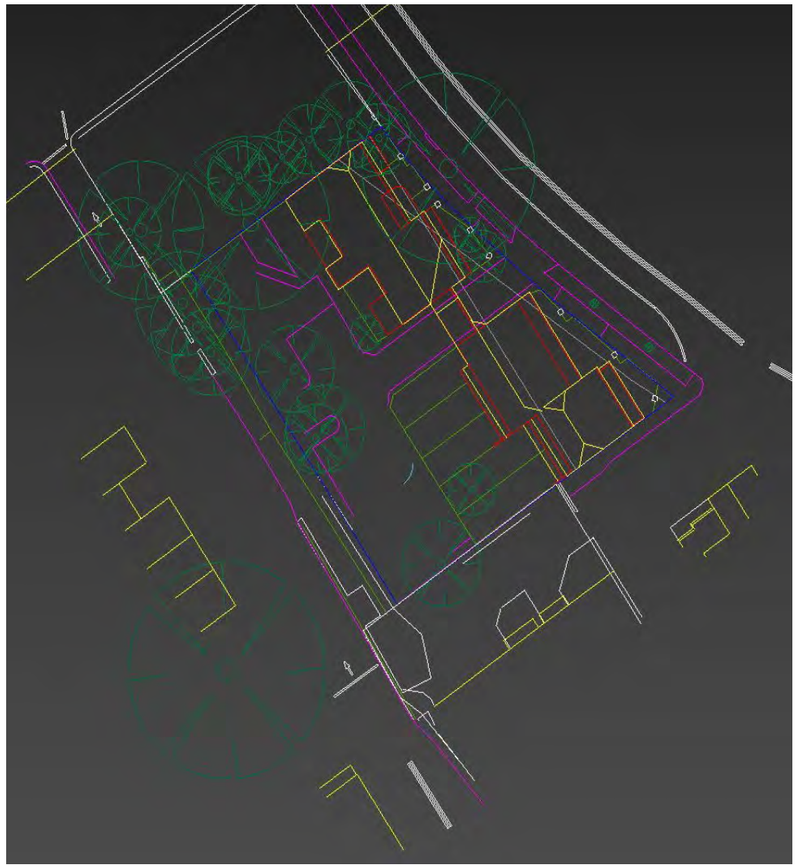

Image showing survey drawing from LTS Lockley at MGA 56 GDA2020 coordinates

3.4 RENDERING CREATION

After the completing the camera alignment, we add lighting to the 3D scene.

A digital sunlight system was added in the 3D scene to match the lighting direction of the sun in Sydney, Australia. This was done using the software sunlight system that matches the angle of the sun using location data and time and date information.

For the renderings, we applied a basic off grey material to the proposed developments. Where photography was unable to be used behind the building due to trees to be removed we have used a photogrammetric model of the city (Aerometrex), to demonstrate the impact of the proposed site.

As directed by NSW Department of Planning, Industry and Environment, we have provided images of two proposed 3D models. View points 1 and 2 are showing an updated scheme supplied in November 2023 whilst view points 3 to 9 the are showing the original scope supplied in July 2023.

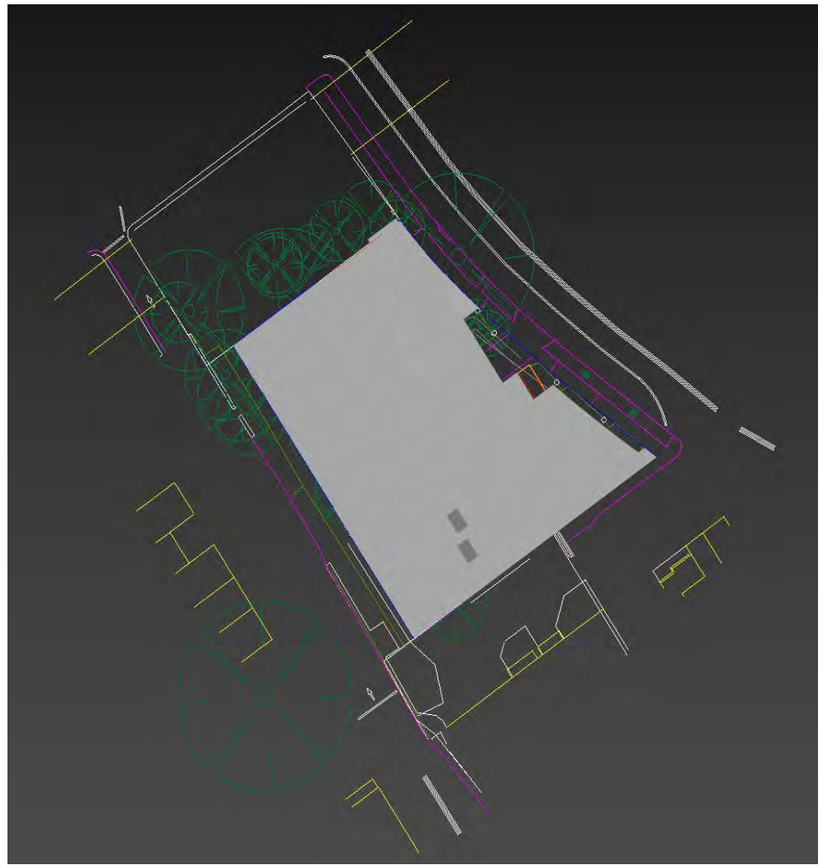

Image showing survey drawing from LTS Lockley at MGA 56 GDA2020 coordinates aligned to the proposed 3D model (grey)

4. VIEWPOINT LOCATIONS



Address	Photo ID	Location
70 Bellevue Street, Glebe	View 1	Balcony outside Living/Dining on level 1
	View 2	Living/Dining on level 1
	View 3	Bedroom on level 2
	View 4	Near Main entrance door (Note: no liveable area on this level)
72 Bellevue Street, Glebe	View 5	Balcony outside Living/Dining on level 1
	View 6	Living/Dining on level 1
	View 7	Bedroom on level 2 (Note: photo taken with plantation shutter opened)
	View 8	Bedroom on Ground floor (Note: photo taken with plantation shutter opened)
	View 9	External terrace deck on Ground floor

5.1 VIEWPOINT POSITION 01 - 70 Bellevue St, Glebe - Balcony outside Living/Dining on Level 1

PHOTOGRAPH OF CURRENT CONDITION



SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



PHOTOGRAPH DETAILS

Photo Date:	17 July 2023
Camera Used:	Sony ILCE-7C
Camera Lens:	16-35mm f/2.8
Focal length in 35mm Film:	24mm

3D Model	November 2023

5.2 VIEWPOINT POSITION 01 - 70 Bellevue St, Glebe - Balcony outside Living/Dining on Level 1

PHOTOGRAPH OF CURRENT CONDITION



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5.3 VIEWPOINT POSITION 01 - 70 Bellevue St, Glebe - Balcony outside Living/Dining on Level 1

OVERLAY OF SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



Z58

5.4 VIEWPOINT POSITION 01 - 70 Bellevue St, Glebe - Balcony outside Living/Dining on Level 1

PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



Z59

6.1 VIEWPOINT POSITION 02 - 70 Bellevue St, Glebe - Living/Dining on Level 1

PHOTOGRAPH OF CURRENT CONDITION



SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



PHOTOGRAPH DETAILS

Photo Date:	17 July 2023
Camera Used:	Sony ILCE-7C
Camera Lens:	16-35mm f/2.8
Focal length in 35mm Film:	24mm

3D Model	November 2023

6.2 VIEWPOINT POSITION 02 - 70 Bellevue St, Glebe - Living/Dining on Level 1

PHOTOGRAPH OF CURRENT CONDITION



261

6.3 VIEWPOINT POSITION 02 - 70 Bellevue St, Glebe - Living/Dining on Level 1

OVERLAY OF SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



202

6.4 VIEWPOINT POSITION 02 - 70 Bellevue St, Glebe - Living/Dining on Level 1

PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



263

7.1 VIEWPOINT POSITION 03 - 70 Bellevue St, Glebe - Bedroom on Level 2

PHOTOGRAPH OF CURRENT CONDITION



SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



PHOTOGRAPH DETAILS

Photo Date:	17 July 2023
Camera Used:	Sony ILCE-7C
Camera Lens:	16-35mm f/2.8
Focal length in 35mm Film:	24mm

3D Model	July 2023

7.2 VIEWPOINT POSITION 03 - 70 Bellevue St, Glebe - Bedroom on Level 2

PHOTOGRAPH OF CURRENT CONDITION



265

7.3 VIEWPOINT POSITION 03 - 70 Bellevue St, Glebe - Bedroom on Level 2

OVERLAY OF SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



266

7.4 VIEWPOINT POSITION 03 - 70 Bellevue St, Glebe - Bedroom on Level 2

PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



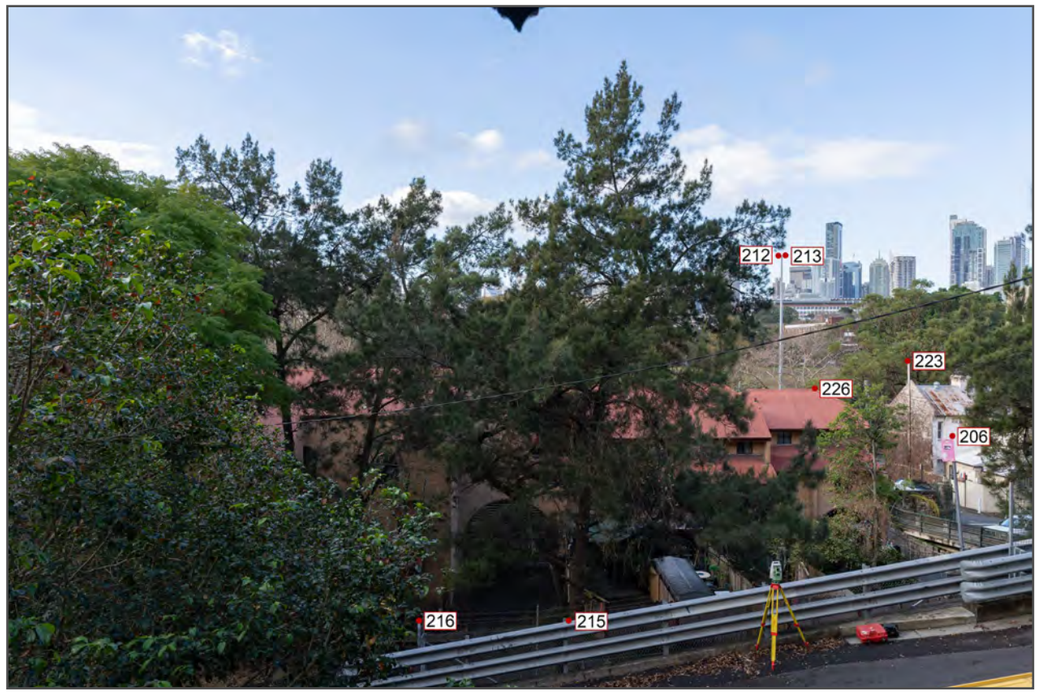
267

8.1 VIEWPOINT POSITION 05 - 72 Bellevue St, Glebe - Balcony outside Living/Dining on Level 1

PHOTOGRAPH OF CURRENT CONDITION



SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



PHOTOGRAPH DETAILS

Photo Date:	17 July 2023
Camera Used:	Sony ILCE-7C
Camera Lens:	16-35mm f/2.8
Focal length in 35mm Film:	24mm

3D Model	July 2023

8.2 VIEWPOINT POSITION 05 - 72 Bellevue St, Glebe - Balcony outside Living/Dining on Level 1

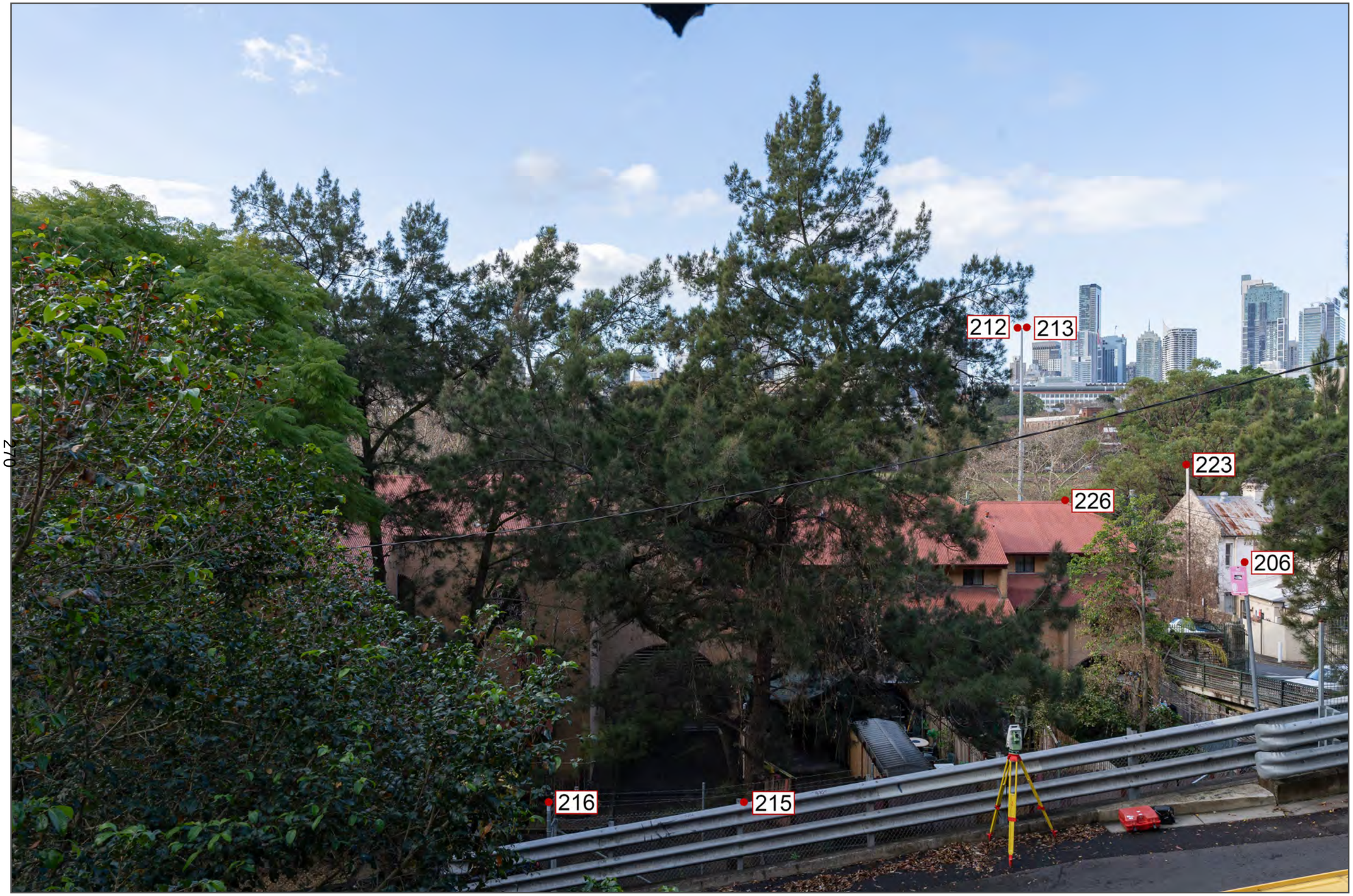
PHOTOGRAPH OF CURRENT CONDITION



Z69

8.3 VIEWPOINT POSITION 05 - 72 Bellevue St, Glebe - Balcony outside Living/Dining on Level 1

OVERLAY OF SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



8.4 VIEWPOINT POSITION 05 - 72 Bellevue St, Glebe - Balcony outside Living/Dining on Level 1

PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



9.1 VIEWPOINT POSITION 06 - 72 Bellevue St, Glebe - Living/Dining on Level 1

PHOTOGRAPH OF CURRENT CONDITION



SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



PHOTOGRAPH DETAILS

Photo Date:	17 July 2023
Camera Used:	Sony ILCE-7C
Camera Lens:	16-35mm f/2.8
Focal length in 35mm Film:	24mm

3D Model	July 2023

9.2 VIEWPOINT POSITION 06 - 72 Bellevue St, Glebe - Living/Dining on Level 1

PHOTOGRAPH OF CURRENT CONDITION



273

9.3 VIEWPOINT POSITION 06 - 72 Bellevue St, Glebe - Living/Dining on Level 1

OVERLAY OF SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



274

9.4 VIEWPOINT POSITION 06 - 72 Bellevue St, Glebe - Living/Dining on Level 1

PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



10.1 VIEWPOINT POSITION 07 - 72 Bellevue Rd, Glebe - Bedroom on Level 2 with plantation shutters open

PHOTOGRAPH OF CURRENT CONDITION



SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



PHOTOGRAPH DETAILS

Photo Date:	17 July 2023
Camera Used:	Sony ILCE-7C
Camera Lens:	16-35mm f/2.8
Focal length in 35mm Film:	24mm

3D Model	July 2023

10.2 VIEWPOINT POSITION 07 - 72 Bellevue Rd, Glebe - Bedroom on Level 2 with plantation shutters open

PHOTOGRAPH OF CURRENT CONDITION



277

10.3 VIEWPOINT POSITION 07 - 72 Bellevue Rd, Glebe - Bedroom on Level 2 with plantation shutters open

OVERLAY OF SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



278

10.4 VIEWPOINT POSITION 07 - 72 Bellevue Rd, Glebe - Bedroom on Level 2 with plantation shutters open

PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



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11.1 VIEWPOINT POSITION 09 - 72 Bellevue Rd, Glebe - External Terrace Deck on Ground Floor

PHOTOGRAPH OF CURRENT CONDITION



SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



280

PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



PHOTOGRAPH DETAILS

Photo Date:	17 July 2023
Camera Used:	Sony ILCE-7C
Camera Lens:	16-35mm f/2.8
Focal length in 35mm Film:	24mm

3D Model	July 2023

11.2 VIEWPOINT POSITION 09 - 72 Bellevue Rd, Glebe - External Terrace Deck on Ground Floor

PHOTOGRAPH OF CURRENT CONDITION



281

11.3 VIEWPOINT POSITION 09 - 72 Bellevue Rd, Glebe - External Terrace Deck on Ground Floor

OVERLAY OF SURVEY POINTS USED FOR 3D CAMERA ALIGNMENT



11.4 VIEWPOINT POSITION 09 - 72 Bellevue Rd, Glebe - External Terrace Deck on Ground Floor

PHOTOMONTAGE OF PROPOSED BUILDING DESIGN



28.3

12.1 3D SCENE DATA SOURCES

Appendix A - Site survey

File Name: 51186 001DT
Author: LTS Lockley
Format: AutoCAD
Alignment: MGA 56 GDA2020

Appendix B.1 - 3D model July 2023

File Name: 23_06_30_6363_A20_82WentworthPark_Concept-3DView
Author: SJB
Format: FBX
Alignment: Aligned to MGA 56 GDA2020 via Appendix A

Appendix B.2 - 3D model November 2023

File Name: 6363_A20_82WentworthPark_DA-3D
Author: SJB
Format: FBX
Alignment: Aligned to MGA 56 GDA2020 via Appendix A

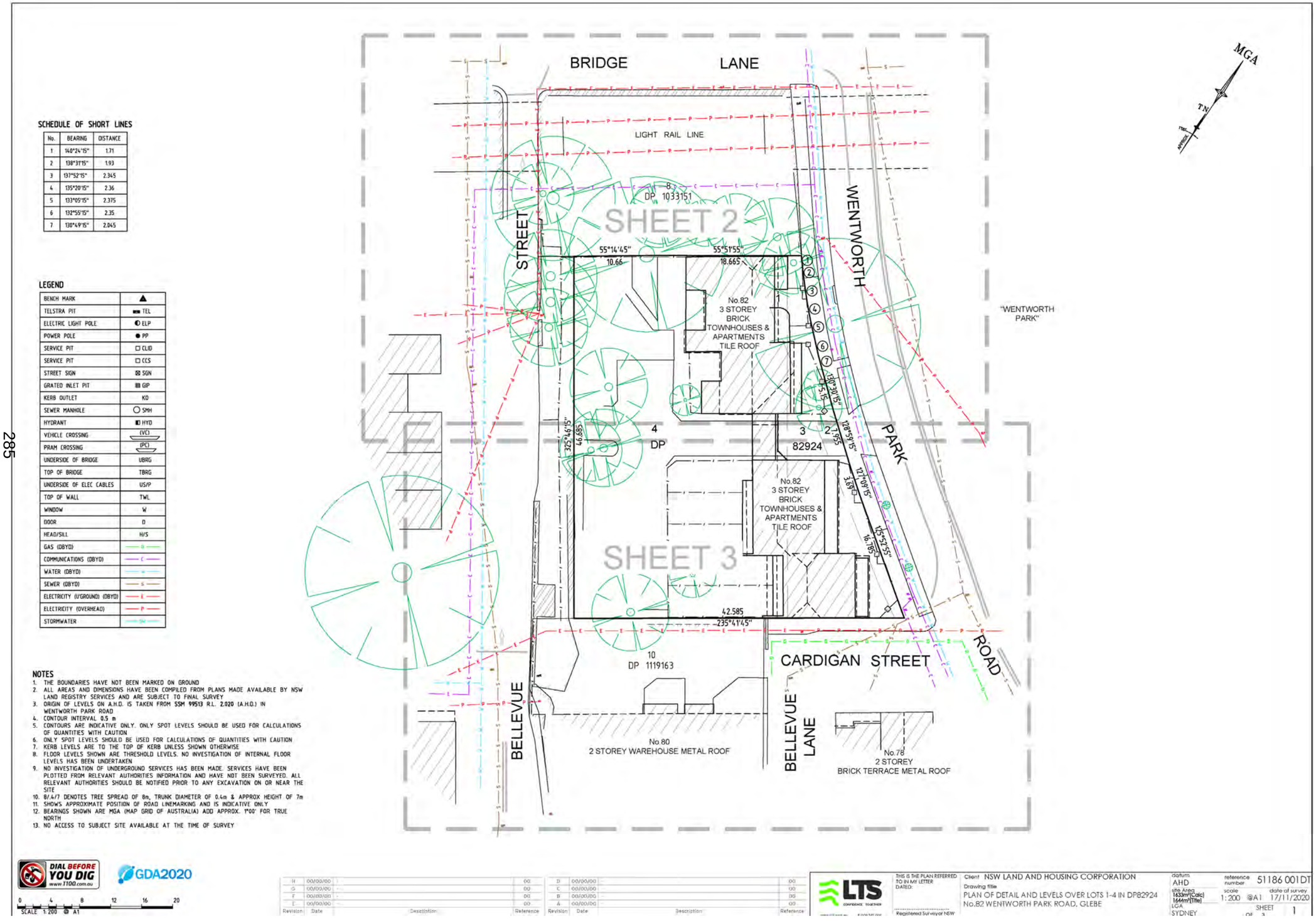
Appendix C - Site photography survey

File Name: 22557 photo locations1
Author: CMS
Format: DWG
Alignment: MGA 56 GDA2020

Appendix D - Additional Photography Locations

Author: Virtual Ideas
Format: ARW and JPG

15.2 APPENDIX A: SITE SURVEY SUPPLIED BY LTS LOCKLEY



SCHEDULE OF SHORT LINES

No.	BEARING	DISTANCE
1	140°24'15"	1.71
2	138°31'15"	1.93
3	137°52'15"	2.345
4	135°20'15"	2.36
5	133°05'15"	2.375
6	132°55'15"	2.35
7	130°49'15"	2.045

LEGEND

BENCH MARK	▲
TELSTRA PIT	TEL
ELECTRIC LIGHT POLE	ELP
POWER POLE	PP
SERVICE PIT	CLID
SERVICE PIT	CCS
STREET SIGN	SGN
GRATED INLET PIT	GIP
KERB OUTLET	KO
SEWER MANHOLE	SMH
HYDRANT	HYD
VEHICLE CROSSING	(VC)
PRAM CROSSING	(PC)
UNDERSIDE OF BRIDGE	UBRG
TOP OF BRIDGE	TBRG
UNDERSIDE OF ELEC CABLES	US/P
TOP OF WALL	TWL
WINDOW	W
DOOR	D
HEAD/SILL	H/S
GAS (DBYD)	G
COMMUNICATIONS (DBYD)	C
WATER (DBYD)	W
SEWER (DBYD)	S
ELECTRICITY (U/GROUND) (DBYD)	E
ELECTRICITY (OVERHEAD)	P
STORMWATER	SW

NOTES
1. THE BOUNDARIES HAVE NOT BEEN MARKED ON GROUND
2. ALL AREAS AND DIMENSIONS HAVE BEEN COMPILED FROM PLANS MADE AVAILABLE BY NSW LAND REGISTRY SERVICES AND ARE SUBJECT TO FINAL SURVEY
3. ORIGIN OF LEVELS ON A.H.D. IS TAKEN FROM SSM 99513 R.L. 2.020 (A.H.D.) IN WENTWORTH PARK ROAD
4. CONTOUR INTERVAL 0.5 m
5. CONTOURS ARE INDICATIVE ONLY. ONLY SPOT LEVELS SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION
6. ONLY SPOT LEVELS SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION
7. KERB LEVELS ARE TO THE TOP OF KERB UNLESS SHOWN OTHERWISE
8. FLOOR LEVELS SHOWN ARE THRESHOLD LEVELS. NO INVESTIGATION OF INTERNAL FLOOR LEVELS HAS BEEN UNDERTAKEN
9. NO INVESTIGATION OF UNDERGROUND SERVICES HAS BEEN MADE. SERVICES HAVE BEEN PLOTTED FROM RELEVANT AUTHORITIES INFORMATION AND HAVE NOT BEEN SURVEYED. ALL RELEVANT AUTHORITIES SHOULD BE NOTIFIED PRIOR TO ANY EXCAVATION ON OR NEAR THE SITE
10. 8/4/7 DENOTES TREE SPREAD OF 8m, TRUNK DIAMETER OF 0.4m & APPROX HEIGHT OF 7m
11. SHOWS APPROXIMATE POSITION OF ROAD LINEMARKING AND IS INDICATIVE ONLY
12. BEARINGS SHOWN ARE MGA (MAP GRID OF AUSTRALIA) ADD APPROX. 1°00' FOR TRUE NORTH
13. NO ACCESS TO SUBJECT SITE AVAILABLE AT THE TIME OF SURVEY

DIAL BEFORE YOU DIG www.1100.com.au

GDA2020

0 4 8 12 16 20
SCALE 1:200 @ A1

Revision	Date	Description	Reference
H	00/00/00		00
G	00/00/00		00
F	00/00/00		00
E	00/00/00		00
D	00/00/00		00
C	00/00/00		00
B	00/00/00		00
A	00/00/00		00

LTS CONFIDENCE TOGETHER

THIS IS THE PLAN REFERRED TO IN MY LETTER DATED:

Registered Surveyor NSW

Client NSW LAND AND HOUSING CORPORATION

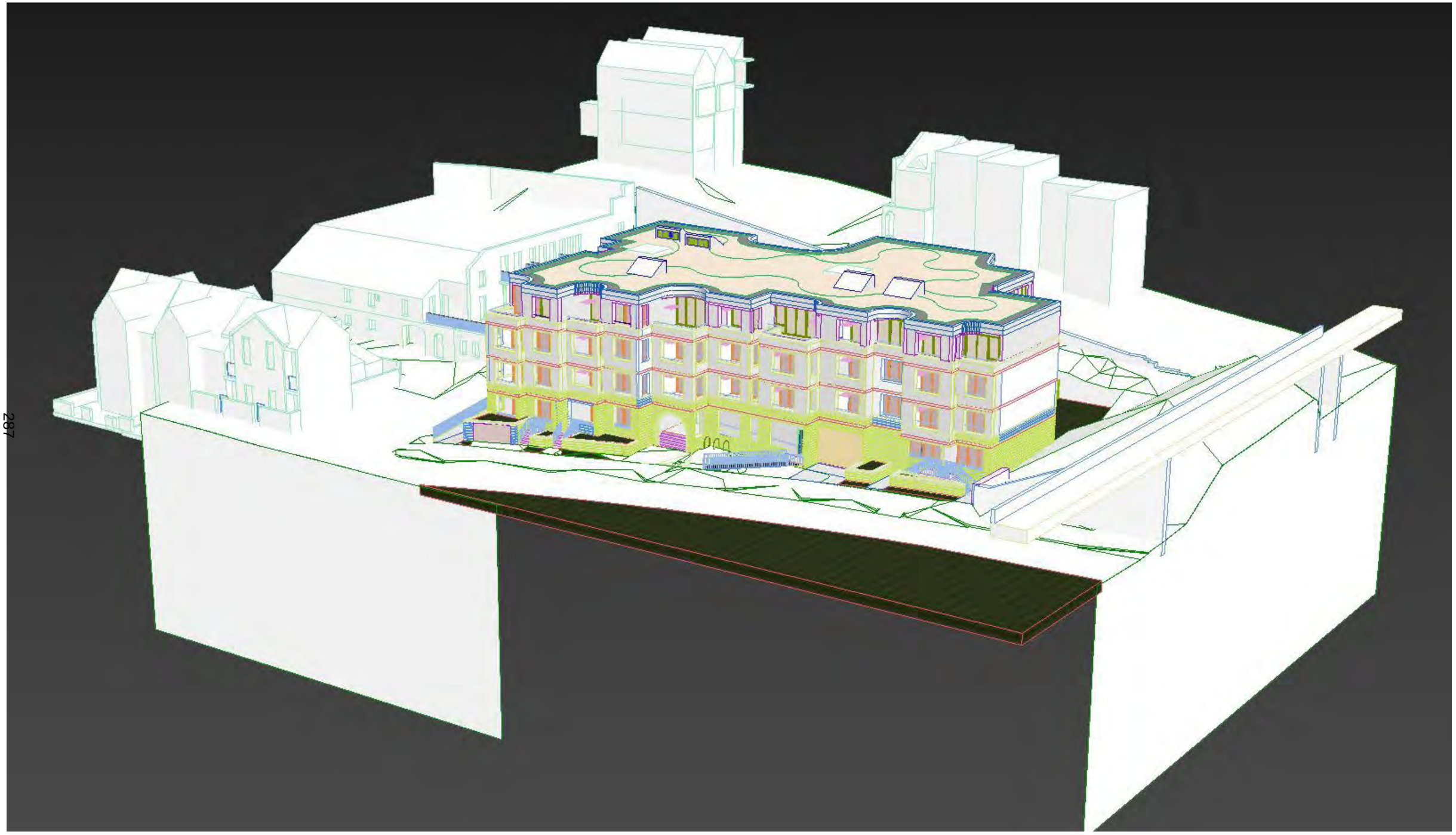
Drawing title
PLAN OF DETAIL AND LEVELS OVER LOTS 1-4 IN DP82924
No.82 WENTWORTH PARK ROAD, GLEBE

datum	AHD
site Area	1633m²[Calc] 1644m²[Title]
LGA	SYDNEY
reference number	51186 001 DT
scale	1:200 @A1
date of survey	17/11/2020
SHEET	1 OF 3

15.3 APPENDIX B1: 3D MODEL OF THE PROPOSED SUPPLIED BY SJB - JULY 2023



15.3 APPENDIX B2: 3D MODEL OF THE PROPOSED SUPPLIED BY SJB - NOVEMBER 2023



15.4 APPENDIX C: SITE PHOTOGRAPHY SURVEY

CMS Surveyors Pty Limited
A.B.N. 79 096 240 201
LAND SURVEYING, PLANNING & DEVELOPMENT CONSULTANTS

CMS SURVEYORS

Date: 18-07-2023
Our Ref: 22616 Photo Locations

Studio 71/61 Marlborough Street
Surry Hills
NSW 2010

Dear Reena Dhupar,

RE: PHOTO LOCATIONS – 70 & 72 Bellevue Street, Glebe

As requested, we have attended site and measured the Co-ordinates and Elevation of the photo locations for 70 & 72 Bellevue Street, Glebe.

Co-ordinates are MGA 56 **(GDA 2020)** and elevation to Australian Height datum (AHD).

Measurements were taken using theodolite measurement. MGA coordinates and AHD are derived from PM 14827 & SSM 70161.

DWG of locations has also been supplied.

Point Number	Easting	Northing	Reduced Level (RL)	Photo Point
1	332612.651	6250051.782	13.47	PHOTO 1
2	332610.943	6250050.576	13.50	PHOTO 2
3	332610.952	6250050.535	16.47	PHOTO 3
4	332615.327	6250052.019	10.68	PHOTO 4
5	332610.167	6250056.334	14.61	PHOTO 5
6	332608.746	6250054.946	14.61	PHOTO 6
7	332607.695	6250054.575	17.60	PHOTO 7
8	332608.447	6250055.903	11.39	PHOTO 8
9	332610.371	6250057.092	11.16	PHOTO 9
200	332609.223	6250055.619	18.57	Window
201	332609.162	6250055.701	18.56	Window
202	332609.223	6250055.616	19.47	Window
203	332609.167	6250055.706	19.47	Window
204	332612.213	6250061.745	11.49	Post
205	332613.185	6250056.841	11.79	Top of fence
206	332626.804	6250056.645	14.19	Top of fence
207	332626.445	6250055.700	13.46	Top of fence
208	332627.227	6250054.473	13.75	Top of fence

Surveyors
SYDNEY HEAD OFFICE
2/99A South Creek Rd, DEE WHY NSW 2099
PO Box 463, DEE WHY NSW 2099
Ph: 02 9971 4802

RIVERINA OFFICE
90 Wallendoon St,
COOTAMUNDRA NSW 2590
Ph: 02 6942 3395
Email: coota@cmssurveyors.com.au

CMS SURVEYORS

Point Number	Easting	Northing	Reduced Level (RL)	Photo Point
209	332652.463	6250070.474	12.69	Sewer vent
210	332654.725	6250069.427	13.32	Roof ridge
211	332659.694	6250069.042	12.68	Roof ridge
212	332714.750	6250079.128	27.95	Light pole
213	332715.208	6250078.241	27.94	Light pole
214	332619.196	6250051.992	18.57	Light pole
215	332622.340	6250062.980	10.59	Rail
216	332620.940	6250065.596	10.50	Fence
217	332634.833	6250081.376	10.83	Top of gutter
218	332636.407	6250083.591	9.69	Window
219	332635.367	6250085.127	9.66	Window
220	332662.328	6250065.242	12.69	Roof ridge
221	332678.068	6250058.426	9.79	Top of gutter
222	332678.444	6250058.391	9.26	Window
223	332680.535	6250060.675	14.20	Sewer vent
224	332631.513	6250086.830	10.92	Top of gutter
225	332629.398	6250085.423	9.39	Top of gutter

Note: R.L. shown on the report for photo locations are ground levels. Camera height should be added to the supplied RL of each corresponding photo location.

Yours faithfully,

CMS Surveyors Pty Limited

Ben Son

Graduate Surveyor

Surveyors
SYDNEY HEAD OFFICE
2/99A South Creek Rd, DEE WHY NSW 2099
PO Box 463, DEE WHY NSW 2099
Ph: 02 9971 4802

RIVERINA OFFICE
90 Wallendoon St,
COOTAMUNDRA NSW 2590
Ph: 02 6942 3395

15.5 APPENDIX D: PHOTOGRAPH LOCATION 4 - 70 Bellevue_View 04_24mm_01 - RL 12.23 Ground Floor Near Main Entrance Door



NOTE: Virtual Ideas took photography from the above position, however the client deemed this view was not to be used as part of our scope of work

15.5 APPENDIX D: PHOTOGRAPH LOCATION 8 - 72 Bellevue_View 08_24mm_01 - RL 12.94 Ground Floor Bedroom with plantation shutters open



290

NOTE: Virtual Ideas took photography from the above position, however the client deemed this view was not to be used as part of our scope of work

Item 5.

Development Application: 51-53 Wells Street, Redfern - D/2022/792

File No.: D/2022/792

Summary

Date of Submission:	5 August 2022 Amended plans and information was submitted in June, September and November 2023.
Applicant:	Mr Tung Cat
Architect/Designer:	Superdraft
Owner:	Mr Tung Cat
Planning Consultant:	Planning Direction Pty Ltd
Heritage Consultant:	Weir Phillips Heritage and Planning
Cost of Works:	$511,700.00
Zoning:	The site is located within the E1 Local Centre zone under the Sydney Local Environmental Plan (SLEP) 2012. The proposal is defined as a single dwelling and a secondary dwelling, both of which are permissible with consent.
Proposal Summary:	Consent is sought to carry out alterations and additions to an existing dwelling and construct a secondary dwelling at the rear of the site. The proposed development is compliant with the principal development standards pursuant to the Sydney Local Environmental Plan 2012. The application is referred to the Local Planning Panel (LPP) for determination as it is contentious development due to more than 25 unique submissions being received. The application was notified for 14 days between 12 August 2022 and 27 August 2022. A total of 26 submissions were received. The issues raised include tree removal, amenity impacts, solar access impacts on

streetscape and character, traffic, waste and construction impacts.

The development application was considered by the Local Planning Panel at the meeting of 1 November 2023 and was deferred.

The application has been amended to address the matters raised by the Local Planning Panel at the 1 November 2023 meeting. The key issues relate to:

- total floor area of secondary dwelling; and
- potential encroachments to the adjoining property to the east.

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

Development Controls:

(i) Sydney Local Environmental Plan 2012

(ii) Sydney Development Control Plan 2012

(iii) SEPP (Resilience and Hazards) 2021

(iv) SEPP (Building Sustainability Index: BASIX) 2004

(v) City of Sydney Development Contributions Plan 2015

(vi) City of Sydney Affordable Housing Program

Attachments:

A. Recommended Conditions of Consent

B. Selected Drawings

C. Planning Report to the 1 November 2023 Local Planning Panel Meeting

Recommendation

It is resolved that:

(A) the Panel consider the amended plans and additional information, submitted since the meeting of the Local Planning Panel held on 1 November 2023;

(B) the Panel consider the previous recommendation for approval, and the updated set of recommended conditions reflecting the amended plans which are set out in Attachment A to the subject report; and

(C) consent be granted to Development Application No. D/2022/792 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

(A) The development is consistent with the objectives of the E1 Local Centre zone contained in Sydney Local Environmental Plan 2012.

(B) The development responds appropriately to the scale of surrounding buildings, and is compatible with the character of the Prince Alfred Park South locality and the Redfern Estate heritage conservation area.

(C) The development exhibits design excellence under Clause 6.21C of Sydney Local Environmental Plan 2012.

(D) The development will not unreasonably compromise the amenity of neighbouring properties.

(E) The development is generally consistent with the objectives of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. A detailed description of the site, surrounding development, and site photos are contained within the previous Planning Report at Attachment C.

History Relevant to the Development Application

Development Application Deferral

2. The development application D/2022/792 was considered by the Local Planning Panel on 1 November 2023. The Panel deferred determination of the development application and provided the following comments:

> The Panel considered it reasonable to defer rather than refuse the application as there appears to be reasonable potential for the additional information required to enable finalisation of the assessment to be provided. Permissibility matters under clause 5.4(9) of the Sydney Local Environmental Plan 2012 need to be resolved before the Panel can determine the application. Further clarification is also required with regards to the common walls with adjoining properties.

Subsequent Development Application Amendments

3. Subsequently, a set of amended plans and additional information were submitted to address the comments made by the Local Planning Panel. The amendments are summarised as follows:

   (a) reduction in the total floor area of the secondary dwelling to comply with Clause 5.4(9) of the Sydney Local Environmental Plan 2012 by reducing the size of Level 2 balcony by 4.5sqm;

   (b) updated gross floor area and total floor area calculation plans; and

   (c) additional information to clarify there are no encroachments to the adjoining property at 134-138 Redfern Street.

Proposed Development

4. The amended application seeks consent for the following:

   - demolition of single storey rear outbuilding currently used as a rumpus room;
   - alterations and additions to the existing dwelling, including a two-storey pavilion addition, reinstatement of original front balcony, and internal alterations; and
   - construction of three storey secondary dwelling at the rear.

5. A set of selected architectural drawings are provided at Attachment B.

6. No amendments are proposed to the ground floor and first floor levels. Level two of the principal dwelling remains unchanged, however there are amendments to level two of the secondary dwelling.

7. Selected drawings are reproduced in the figures below, highlighting the amendments to the secondary dwelling.

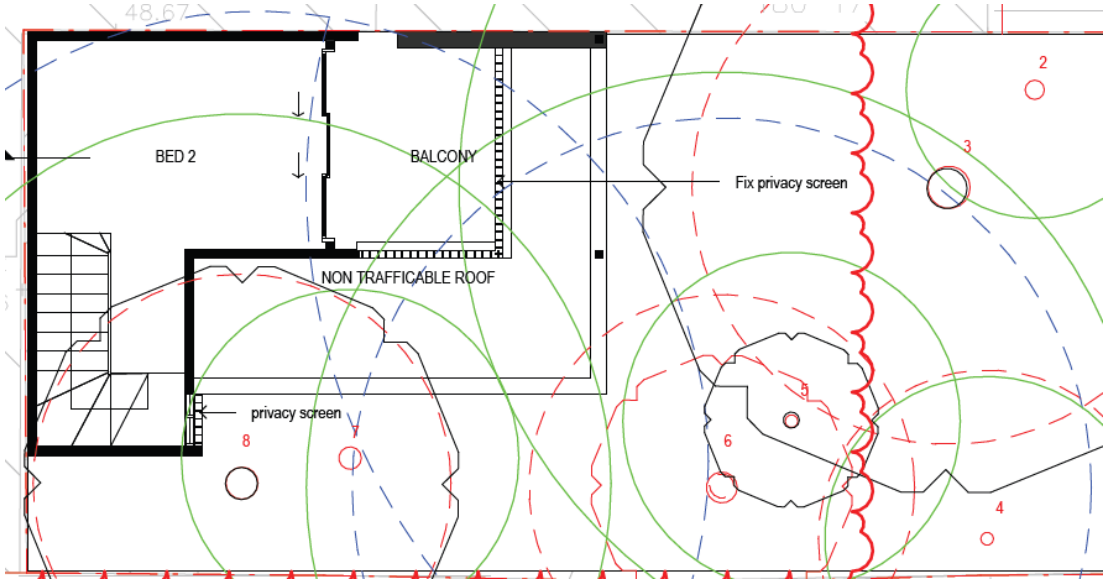


Figure 1: Secondary dwelling level two floor plan, presented at 1 November 2023 LPP Meeting

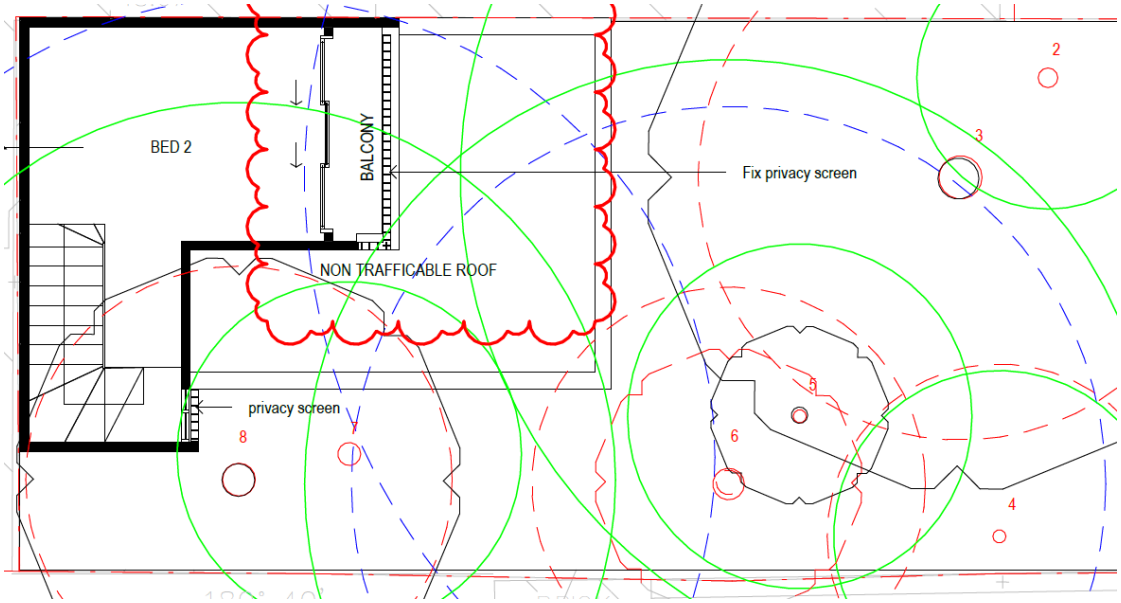


Figure 2: Secondary dwelling, amended level two floor plan



Figure 3: Secondary dwelling east elevation, presented at 1 November 2023 LPP Meeting

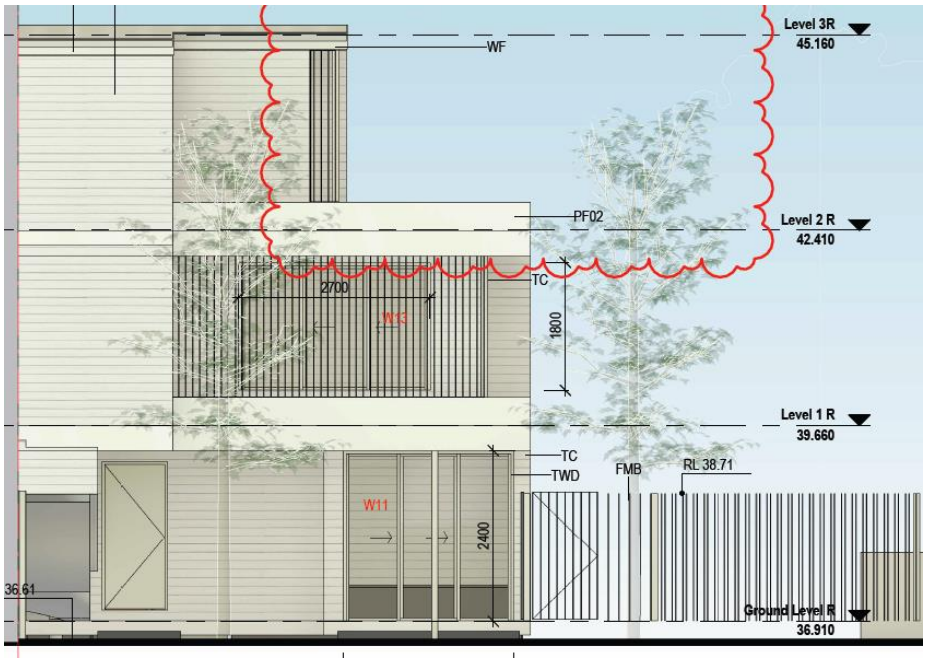


Figure 4: Secondary dwelling, amended east elevation

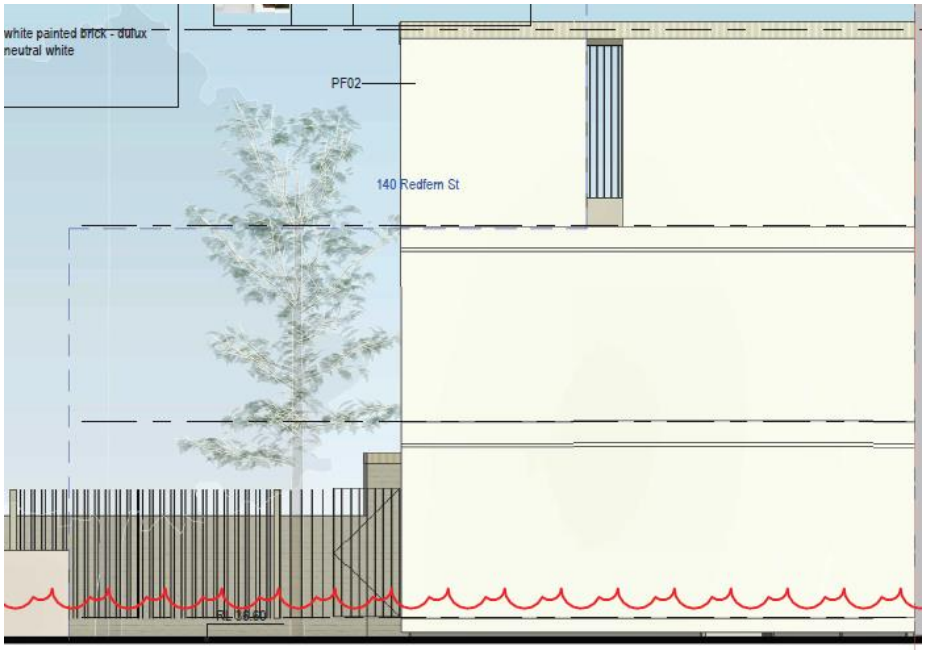


Figure 5: Secondary dwelling west elevation, presented at 1 November 2023 LPP Meeting

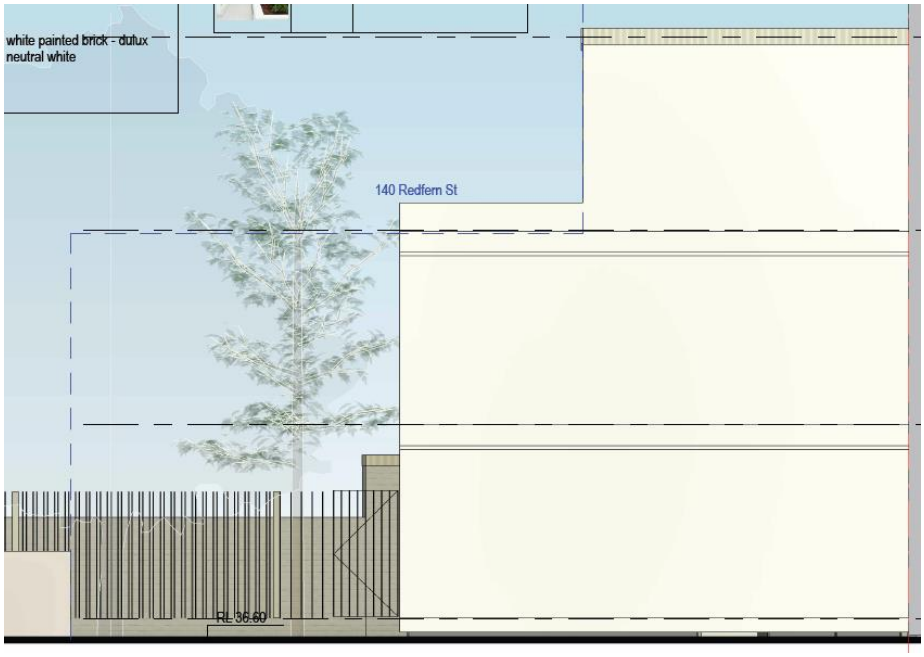


Figure 6: Secondary dwelling, amended west elevation

Assessment

8. 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

9. An assessment of the relevant SEPPs is outlined in the previous assessment report at Attachment C. The previous assessment against the provisions of the SEPPs remains relevant.

Local Environmental Plans

Sydney Local Environmental Plan 2012

10. An assessment of the proposed development, as amended, against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following table sections.

11. An assessment of the provisions not directly affected by the amendments to the proposal are discussed in the previous Planning Report at Attachment C.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.4 Controls relating to miscellaneous permissible uses	Yes	The proposed secondary dwelling, as amended, has a total floor area of 67.85sqm, which is compliant with subclause (9)(b), as it does not exceed 30% of the total floor area of the principal dwelling. The total floor area of the principal dwelling is 229.04 sqm, 30% of 229.04 is 68.71 sqm.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	The proposal, as amended, responds appropriately to the context of neighbouring developments, the heritage conservation area, and the locality. It 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. The development achieves design excellence.

Development Control Plans

Sydney Development Control Plan 2012

12. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is outlined in the previous Planning Report at Attachment C.

Discussion

Total Floor Area - Secondary Dwelling

13. Clause 5.4(9) of the Sydney Local Environmental Plan (SLEP) 2012 stipulates the controls relating to secondary dwellings. Specifically, the Clause outlines the maximum total floor area (TFA) permissible for a secondary dwelling must not exceed 60 square metres, or 30% of the TFA of the principal dwelling, whichever is greater.

14. The total floor area of the secondary dwelling design presented at the 1 November 2023 Local Planning Panel (LPP) meeting was not compliant with Clause 5.4(9) as an assessment had been carried out based on Gross Floor Area (GFA) rather than the TFA definition. Subsequently, the floor area has been reduced by 4.5sqm in order to comply.

15. The applicant has provided a TFA calculation plan for the secondary dwelling and principal dwelling. The TFA of the principal dwelling is 229.04sqm. The plans demonstrate that the proposed secondary dwelling complies with Clause 5.4(9)(b), in that the proposed TFA of 67.85sqm does not exceed 30% of the TFA of the principal dwelling, being 68.71sqm.

16. As such, the proposal demonstrates compliance with Clause 5.4(9) of the SLEP 2012.

Building Encroachments

17. Further information was requested by the Local Planning Panel in relation to possible encroachments of the proposed development to the adjoining site at 134-138 Redfern Street.

18. A boundary survey has been provided by the applicant, which indicates there is a brick wall running along the eastern boundary of the subject site (see Figure 7 below). However, the wall itself is contained within the allotment of the adjoining site, 134-138 Redfern Street.

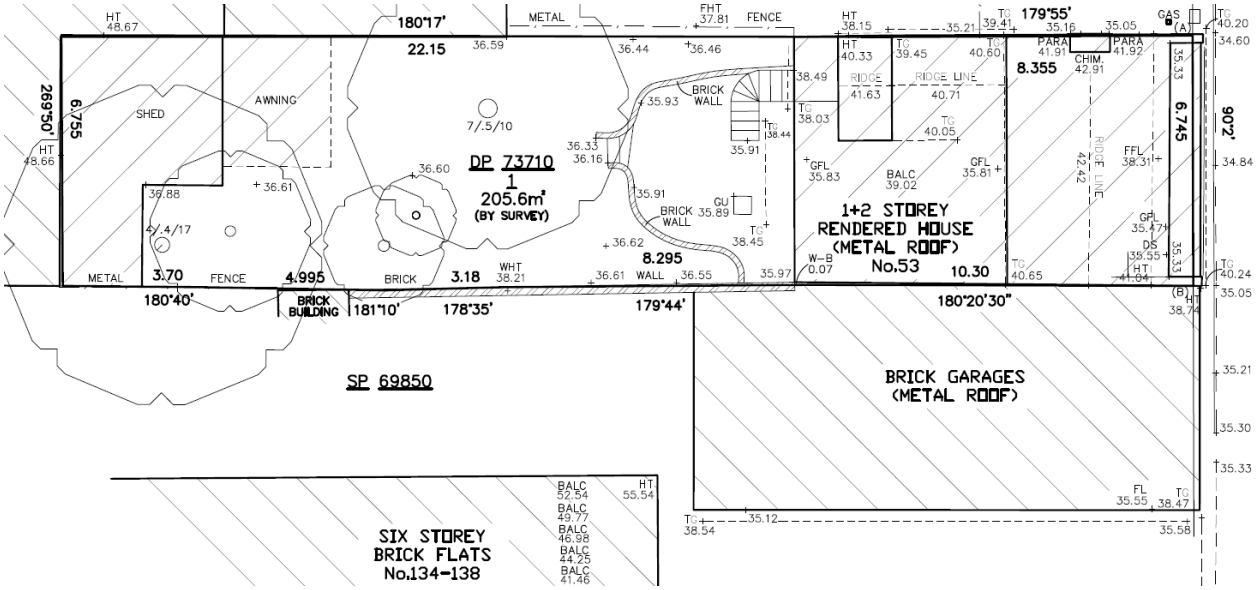


Figure 7: Boundary survey, showing subject site and adjoining property at 134-138 Redfern Street

19. The architectural drawings show that no works are proposed along the eastern boundary against the brick wall. Figure 8 below demonstrates that all existing RLs will remain unchanged within the area shaded in orange.

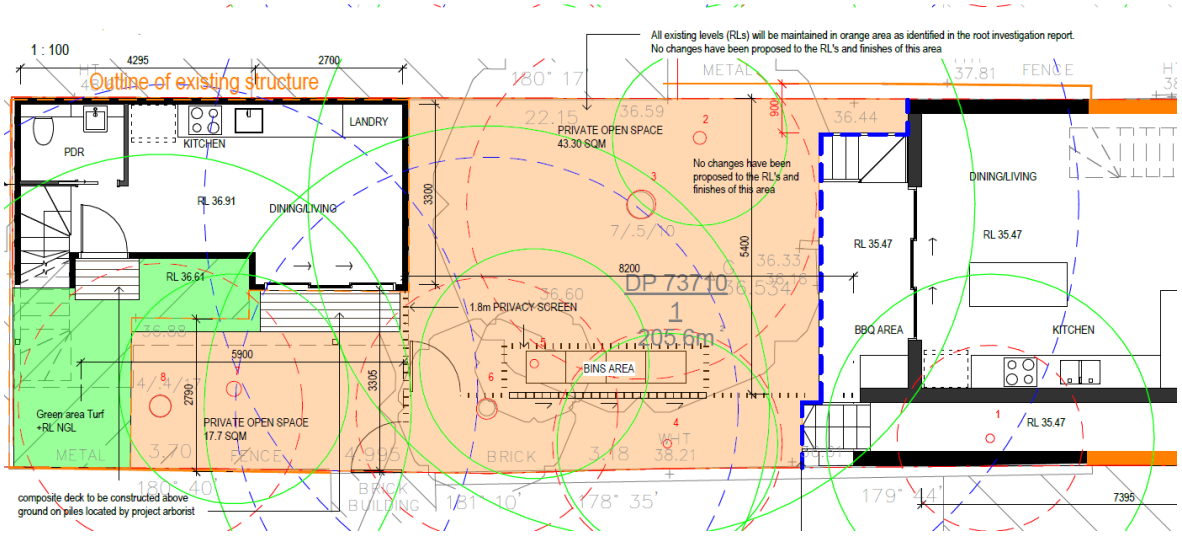


Figure 8: Proposed ground floor level plan. No changes to RLs proposed in area shaded in orange.

20. In addition to the above, a letter has been provided by the Registered Surveyor that prepared the boundary survey confirming that there are no encroachments onto 134-138 Redfern Street by 51-53 Wells Street.

21. A standard condition is recommended in Attachment A to ensure that the proposed works will not encroach on neighbouring properties.

Archaeological Heritage

22. It was raised by the Panel during the 1 November 2023 Local Planning Panel meeting that a condition should be imposed in relation to the discovery of archaeological heritage during construction, given the age of the principal dwelling and potential for unexpected discovery of relics.

23. As such, Condition 20 - Archaeological Discovery During Excavation, has been added to the Recommended Conditions of Consent at Attachment A.

Consultation

24. Discussion relating to internal referrals is outlined in the previous Planning Panel Report at Attachment C.

Advertising and Notification

25. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 14 days between 12 August 2022 and 27 August 2022.

26. A total of 107 properties were notified and 26 submissions were received, all of which objected to the proposed development.

27. The amended proposal was not required to be renotified in accordance with the City of Sydney Community Engagement Strategy and Participation Plan 2023, as the amendments do not result in significant additional environmental impacts.

28. Discussion relating to issues raised in submissions is outlined in the previous Planning Report at Attachment C.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

29. The proposed secondary dwelling is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015 as it considered as a 2-bedroom dwelling that results in a net increase in resident population.

30. The amended development results in a decrease in the total floor area of the proposed secondary dwelling, however, as there is no change to the total number of bedrooms provided by the proposed development (only the balcony has been reduced in size), the development contribution payable remains unchanged.

31. A condition relating to this contribution has been included in Attachment A, requiring payment prior to the issue of a construction certificate.

32. The alterations and additions to the existing dwelling is otherwise excluded from a Section 7.11 development contribution as it is a type of development listed in Table 2 of the City of Sydney Development Contributions Plan 2015.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

33. The development is not subject to a Section 7.13 affordable housing contribution.

34. This is discussed in the previous Planning Panel Report at Attachment C.

Relevant Legislation

35. Environmental Planning and Assessment Act 1979.

Conclusion

36. The proposed alterations and additions are generally consistent with the zone objectives contained in Sydney Local Environmental Plan 2012.

37. The development application was considered by the Local Planning Panel at the meeting of 1 November 2023 and was deferred. Amended plans have been submitted to address the recommendations of the Local Planning Panel.

38. The development, as amended and subject to conditions, achieves an acceptable standard of architectural design, materials, and detailing and achieves design excellence.

39. The development is generally consistent with the design requirements of Section 4.1 of Sydney Development Control Plan 2012. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances of the proposed development or can be resolved by the recommended conditions.

40. The buildings, as amended and subject to conditions, have been designed with an acceptable bulk and scale. The proposal is consistent with the objectives and desired future character for the locality and the Redfern Estate heritage conservation area.

ANDREW THOMAS

Executive Manager Planning and Development

Veronique Hoffman, Planner

Attachment A

Recommended Conditions of Consent

SCHEDULE 1

CONDITIONS OF CONSENT

PART A - GENERAL

(1) APPROVED DEVELOPMENT

(a) Development must be in accordance with Development Application No. D/2022/792 dated 5 August 2022 and the following drawings prepared by SN Architects:

Drawing Number	Drawing Name	Date
DA1005 Rev C	Site Plan	17 November 2023
DA1102 Rev C	Ground Level	24 August 2023
DA1103 Rev C	Level 01	24 August 2023
DA1104 Rev D	Level 02	17 November 2023
DA2001 Rev D	Elevations_Sheet 1	17 November 2023
DA2002 Rev D	Elevations_Sheet 2	17 November 2023
DA2003 Rev B	Elevations_Sheet 3	23 June 2023
DA3001 Rev C	Section A	17 November 2023
DA7041 Rev B	Finishes Schedule	23 June 2023

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) UPDATED BASIX CERTIFICATE

(a) An updated BASIX certificate must be submitted to the appointed Certifier prior to issue of a construction certificate.

(b) A copy of the required completed BASIX certificate, must be lodged with an application for a construction certificate and the items nominated as part of the subject BASIX certificate must be specified on the plans submitted with the construction certificate application.

Reason

To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under clause 75 EP&A Regulation, 2021).

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

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

Contribution Category	Amount
Open Space	$12,875.00
Community Facilities	$2,563.00
Traffic and Transport	$3,269.00
Stormwater Drainage	$1,293.00
Total	$20,000.00

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

Cpayment = Cconsent x (CPIpayment ÷ CPIconsent)

Where:

Cpayment = Is the contribution at time of payment;

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

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

CPI1consent = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 134 for the June 2023 quarter.

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

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

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

Reason

To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.

(4) SECONDARY DWELLINGS ANCILLARY TO PRINCIPAL DWELLING

The secondary dwelling is:

(a) To be established in conjunction with the principal dwelling contained within the lot; and

(b) To remain within the same lot as the principal dwelling.

Reason

To restrict the subdivision of the site.

(5) REDUCTION OF RISING DAMP AND SALT ATTACK IN BUILDINGS CONSTRUCTED PRIOR TO 1920

(a) To avoid potential damage caused by rising damp and migrating salts the following is to apply to the ground floor.

(i) No concrete slab is to be laid directly on the ground within the primary dwelling;

(ii) Expansion strips should be used in conjunction with external walls; and

(iii) External slabs must be set down from internal levels to improve cross ventilation.

(b) The existing suspended timber floor at ground floor level, and the ventilated subfloor space is to be retained or where retention is not possible, reconstructed.

Reason

To avoid potential damage caused by rising damp and migrating salts.

(6) TIMBER FRONT DORMERS

(a) The front dormer must use timber joinery and double-hung windows and must be a rectangular, timber framed, vertically proportioned, double hung sash window with a ratio of 1.5:1 measured from base to top of the window frame.

(b) The dormers must be symmetrically placed on the roof plane.

(c) The total external width of the dormer including frames must not exceed 1200mm (exclusive of eave overhangs and gutters) and the eave and gable overhang must not exceed 100mm.

(d) Glazing must not be used in the gable or sides of the dormer.

(e) Roof materials must match the existing roof material and the roof pitch must be between 32 degrees and 45 degrees.

(f) The external side walls of the dormer are to be of timber weatherboards of a profile and section consistent with the period and style of the building.

(g) The external joinery must be detailed in a manner appropriate to the style and period of the building.

(h) The architraves that cover the side walls and boxed window frames should not exceed 150mm in width.

Details of the dormer (at a scale of 1:20) and of the weatherboard profile must be submitted to and approved by Council's Area Coordinator Planning Assessments or Area Planning Manger prior to the issue of any Construction Certificate.

Reason

To ensure that the front dormer is of an appropriate design and does not have adverse heritage impacts.

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

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

Reason

To clarify the scope of the consent.

(8) TREES APPROVED FOR REMOVAL

(a) All trees detailed in Table 1 below are approved for removal. Tree removal must not occur until the Construction Certificate has been issued.

Table 1 – Tree Removal:

Tree No	Species:	Location
1	Vitis vinifera	Southern boundary – within building footprint
4	Nerium oleander	Southern boundary – within building footprint

(b) All tree removal works must be carried out by a qualified Arborist, with a minimum AQF Level 3 and in accordance with SafeWork's Code of Practice – Amenity Tree Industry.

Reason

To identify the trees that can be removed.

(9) TREES THAT MUST BE RETAINED

The existing trees detailed in Table 2 below be retained and protected in accordance with the conditions throughout construction and development.

Table 2 – Tree Retention:

Approval is NOT granted for the removal of the following trees, which Council has determined to be prominent landscape elements.

Tree No	Species:	Location
2	Howea forsteriana	Rear yard – refer to approved ground floor plan for tree numbers and locations
3	Jacaranda mimisifolia	
5	Howea forsteriana	
6	Eucalyptus nicholii	
7	Howea forsteriana	
8	Eucalyptus nicholii	

Reason

To identify the trees that cannot be removed, must be retained and protected.

(10) WASTE AND RECYCLING MANAGEMENT - GENERAL

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

(11) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

(a) A Construction Traffic Management Plan must be submitted to and approved by Council's Area Planning Coordinator or Area Planning Manager prior to a Construction Certificate being issued.

(b) 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.

(12) CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

Prior to the issue of a Construction Certificate a Construction Environmental Management Plan (CEMP) must be prepared by appropriately qualified person for the site and submitted to Council's Area Planning Coordinator or Area Planning Manager for written approval. The CEMP must consider all potential environmental impacts from the approved works including but not limited to sedimentation control, contamination containment, stockpiles, noise and vibration, odours and dust emissions.

All works must be undertaken onsite in accordance with the approved Construction Environmental Management Plan.

Reason

To ensure that construction is appropriately managed.

(13) SITE SUPERVISION AND REPORTING

(a) An Arborist with minimum qualifications in Arboriculture of Level 5 (under the Australian Qualification Framework) must oversee various stages of work within the Tree Protection Zone of any tree listed for retention. The Arborist must certify compliance with each key milestone detailed below:

(i) The installation of tree protection measures prior to the commencement of any construction works;

(ii) During demolition of any ground surface materials (pavers, concrete, grass etc.) within the Tree Protection Zone (TPZ) of any tree to be retained;

(iii) During excavations for the main building extension within the TPZ of tree 3;

(iv) During construction of the concrete slab for the secondary dwelling within the TPZ of any tree listed for retention;

(v) During any excavation and trenching within the TPZ;

(v) During any Landscape works within the TPZ which has been approved by Council.

(b) An Arboricultural Compliance Report which includes photographic evidence and provides details on the health and structure of tree/s must be submitted to and acknowledged by Council's Area Planning Coordinator or Area Planning Manager at each hold point listed below:

(i) Certification that tree protection measures have been installed in accordance with these consent conditions;

(ii) Certification of compliance with each key milestone listed above within 48 hours of completion;

(iii) Monthly reporting for the duration of construction and development works within the site;

(iv) Details of any other works undertaken on any tree to be retained or any works within the TPZ which has been approved by Council.

(c) A final compliance report must be submitted to and approved by Council's Area Planning Coordinator or Area Planning Manager prior to the issue of any Occupation Certificate.

Reason

To ensure the protection and ongoing health of trees on the site.

(14) WASTE AND RECYCLING MANAGEMENT - RESIDENTIAL

(a) The Waste and Recycling Management Plan accompanying this Development Application has not been approved by this consent.

(b) A Waste and Recycling Management Plan including demolition and construction waste and recycling details, is to be submitted to and approved by Council's Area Coordinator Planning Assessments or Area Planning Manager prior to a Construction Certificate being issued. The plan must comply with the Council's *Guidelines for Waste Management in New Developments 2018*.

(c) The Waste and Recycling Management Plan must include:

(i) The path of travel between the bin storage areas/bulky waste storage areas and the designated waste/recycling collection point is to have a minimum 1,200mm wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:14. The use of a lift is permitted, but consideration should be given to the inclusion of a service lift in this instance.

(ii) All nominated waste and recycling storage areas must be constructed to meet the relevant conditions required by Council's *Guidelines for Waste Management in New Developments 2018.*

UPON COMPLETION OF THE DEVELOPMENT

(d) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must obtain Council's approval of the waste and recycling management facilities provided in the development and ensure arrangements are in place for domestic waste collection by Council.

Reason

To ensure that waste and recycling is appropriately managed.

PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

(15) TREE PROTECTION ZONE

(a) Before the commencement of works, Tree Protection Zone/s (TPZ) must be established around all trees to be retained not less than the distance indicated in the TPZ schedule below.

(b) Tree protection must be installed and maintained in accordance with the Australian Standard 4970 Protection of Trees on Development Sites and with the following schedule:

TPZ Schedule

Tree No.	Species Name	Location	Radius (m) From Trunk
2	Howea forsteriana	Rear Yard – refer to approved ground floor plan for tree numbers and locations	2.5m
3	Jacaranda mimosifolia	Rear Yard – refer to approved ground floor plan for tree numbers and locations	7.8m
5	Howea forsteriana	Rear Yard – refer to approved ground floor plan for tree numbers and locations	3m
6	Eucalyptus nicholii	Rear Yard – refer to approved ground floor plan for tree numbers and locations	4.8m
7	Howea forsteriana	Rear Yard – refer to approved ground floor plan for tree numbers and locations	3m
8	Eucalyptus nicholii	Rear Yard – refer to approved ground floor plan for tree numbers and locations	5.9m

Note: Only applies to the TPZ within the subject development site and the public domain.

(c) Tree trunks and major branch protection must be undertaken prior to the commencement of any works. The protection must be installed and certified by a qualified Arborist (minimum AQF 3) and must include;

(i) Tree trunk/s and/or major branches must be protected by wrapped thick carpet underlay or similar padding material to limit damage.

(ii) Timber planks (50mm x 100mm 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 carpet underlay or padding material and timber planks must not be fixed to the tree in any instance, or in any fashion.

(iii) Tree trunk and major branch protection is to remain in place for the duration of construction and development works and must be removed at the completion of the project.

(d) Ground surface protection must be installed if construction access is required through any TPZ of this condition where hard surface / paving is not existing. The ground protection must be:

(i) Protected with boarding (ie scaffolding board or plywood sheeting or similar material), placed over a layer of mulch to a depth of at least 75mm and geotextile fabric;

(ii) The protective boarding must be left in place for the duration of the construction and development.

(e) The following works must be excluded from within any TPZs:

(i) Excavation (except for the area required for the approved main building extension);

(ii) Soil cut or fill including trenching;

(iii) Soil cultivation, disturbance or compaction;

(iv) Stockpiling, storage or mixing of materials;

(v) The storing, washing and repairing of tools, equipment and machinery;

(vi) The disposal of liquids and refuelling;

(vii) The disposal of building materials;

(viii) The siting of offices or sheds;

(ix) Any action leading to the impact on tree health or structure.

(f) Any trenching works for services / hydraulics / drainage etc must not be undertaken within any TPZ. Alternative installation methods for services, such as directional boring/drilling, or redirection of services must be employed.

(g) All work undertaken within or above the TPZ must be:

(i) Carried out in accordance with a work methodology statement prepared by an Arborist (minimum AQF Level 5) and written approval is obtained from Council's Tree Management Officer before its implementation; and

(ii) Supervised by a Project Arborist (minimum AQF Level 5).

Reason

To ensure the protection and ongoing health of trees.

(16) DILAPIDATION REPORT – MINOR

Subject to the receipt of permission of the affected landowner, dilapidation report/s of adjoining buildings are to be prepared by an appropriately qualified practising structural engineer and submitted for the approval of the Registered Certifier prior to the issue of a construction certification.

Reason

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

(17) STRUCTURAL INTEGRITY OF RETAINED BUILDING ELEMENTS

Prior to a commencement of demolition, excavation or construction work, a report or certification from a practicing structural engineer experienced in dealing with heritage buildings must be submitted to and approved by Area Coordinator Planning Assessments or Area Planning Manager. The report must explain how the retained building elements, such as building facades or chimneys are to be retained, supported and not undermined by the proposed development and give details of any intervention or retrofitting needed.

Reason

To ensure the preservation of the building elements that are proposed to be retained.

(18) 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.

PART D – WHILE BUILDING WORK IS BEING CARRIED OUT

(19) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

(a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. Loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.

(b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 – 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.

(c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a 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.

(20) 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.

(21) TREE SENSITIVE EXCAVATION

Structural Root Zone (SRZ) Schedule:

Tree No	Species	TPZ radius (m) from Trunk	SRZ (m) from Trunk
2	Howea forsteriana	2.5m	n/a
3	Jacaranda mimosifolia	7.8m	3m
5	Howea forsteriana	3m	n/a
6	Eucalyptus nicholii	4.8m	2.4m
7	Howea forsteriana	3m	n/a
8	Eucalyptus nicholii	5.9m	2.6m

(a) Within the SRZ;

(i) Excavation must not occur within the SRZ. If excavation is proposed within this zone, the Council's Tree Management Officer must be contacted immediately and the excavation must be carried out in accordance with Council's direction.

(b) Within the TPZ;

(i) Small hand tools such as mattocks or using compressed air or water jetting only shall be used. Roots with a diameter equal to or greater than 40mm shall not be severed or damaged unless approved in writing by Council's Tree Management Officer.

Mechanical excavation is permitted beyond this radius when root pruning by hand along the perimeter line is completed. Exposed roots to be retained shall be covered with mulch or a geotextile fabric and kept in a moist condition and prevented from drying out.

(ii) All excavations must be supervised by a Project Arborist (minimum AQF Level 5).

(c) Footings must be relocated / realigned if any tree root greater than 40mm in diameter is encountered during excavations. A minimum of 150mm clearance must be provided between the tree root and footing.

(d) All excavations located within the TPZ must be supervised by a Project qualified Consultant Arborist (minimum AQF Level 5), who holds the Diploma in Horticulture (Arboriculture), Level 5 under the Australian Qualification Framework.

(e) All root pruning must be undertaken in accordance with the Australian Standard 4373 'Pruning of Amenity Trees' and by a qualified Arborist with a minimum AQF level 3.

Reason

To ensure the protection and ongoing health of trees.

(22) TREE PRUNING – FURTHER APPROVAL REQUIRED

Consent from Council's Tree Management Officer must be obtained prior to any tree pruning work being undertaken, including tree roots greater than 40mm in diameter, for any trees located within or adjacent to the site. Only minor pruning works will be approved by Council.

Reason

To ensure that pruning works to trees are carried out in an appropriate manner.

(23) PROTECTION OF NATIVE WILDLIFE

(a) In the event that wildlife is found during the course of tree removal works, work must stop until a trained wildlife handler attends the site or the animal relocates itself. In regards to tree pruning, works may only proceed if the animals will not come into direct harm.

(b) In the event that the tree has nesting birds or native animals, works must be delayed until after the nesting period has been completed, unless in the event of an emergency.

Reason

To ensure that wildlife is adequately protected during tree removal/pruning works.

(24) COMPLIANCE WITH NATIONAL CONSTRUCTION CODE

All proposed work must comply with the *National Construction Code (previously known as Building Code of Australia*).

Reason

(Prescribed condition - EP&A Regulation 2021 clause 69(1)).

(25) EROSION AND SEDIMENT CONTROL - LESS THAN 250SQM

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

Reason

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

(26) SURVEY

All footings, walls and floor slabs adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report, prepared by a Registered Surveyor, must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments by the subject building over adjoining boundaries or roads must be removed prior to continuation of building construction work.

Reason

To ensure the development does not encroach onto neighbouring properties.

(27) 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.

(28) EROSION AND SEDIMENT CONTROL

The Soil and Water Management Plan (SWMP) or Erosion and Sediment Control Plan (ESCP) which has been approved by the Principal Certifier must be implemented in full during the construction period.

During the construction period:-

(a) erosion and sediment controls must be regularly inspected, repaired and maintained in working order sufficient for a 10 year Average Recurrence Interval (ARI) rainfall event;

(b) erosion and sediment control signage available from Council must be completed and attached to the most prominent structure visible at all times when entering the site for the duration of construction; and

(c) building operations and stockpiles must not be located on the public footway or any other locations which could lead to the discharge of materials into the stormwater system.

Reason

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

(29) 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.

(30) 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.

(31) 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.

(32) 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

(33) BASIX

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

Reason

To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under clause 75 EP&A Regulation 2021).

(34) SURVEY CERTIFICATE AT COMPLETION

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

Reason

To ensure the development does not encroach onto neighbouring properties.

PART F – OCCUPATION AND ONGOING USE

(35) OCCUPATION CERTIFICATE TO BE SUBMITTED

An Occupation Certificate must be obtained from the Principal Certifier and a copy submitted to Council prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

Reason

To ensure the site is authorised for occupation.

(36) ENCROACHMENTS – NEIGHBOURING PROPERTIES

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

Reason

To protect neighbouring properties.

(37) ENCROACHMENTS – PUBLIC WAY

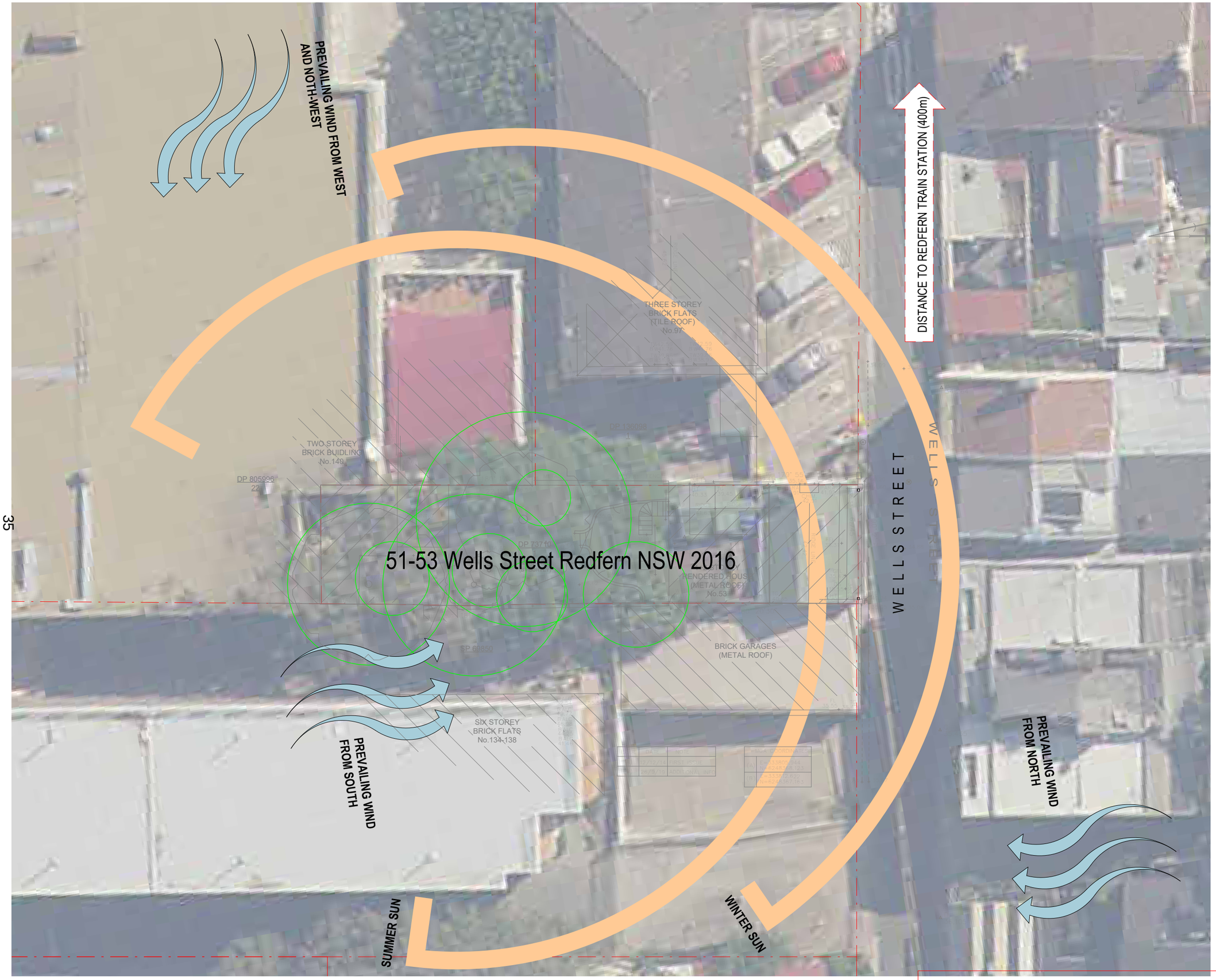
No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach upon Council's footpath area.

Reason

To protect the public way.

Attachment B

Selected Drawings



DA documentation prepared by Superdraft (Rev A) and Updated by SN Architects (Rev B & C & D)

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NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

Rev.	Date	Description
A	12.07.2022	DA SUBMISSION

Scale m 0 2 4 6 8
1:200 at A3 1:100 at A1

REFERENCES

DRAWINGS TO BE READ IN CONJUNCTION WITH BUT NOT LIMITED TO ALL STRUCTURAL ENGINEERS, STORMWATER ENGINEERS, LANDSCAPE ARCHITECTS, AND OTHER ASSOCIATED PLANS & REPORTS .

REFER TO THE BASIX REPORT FOR ADDITIONAL REQUIREMENTS.

NOTES

ALL DIMENSIONS AND SETOUTS ARE TO BE VERIFIED ON SITE AND ALL OMISSIONS OR ANY DISCREPANCIES TO BE NOTIFIED.
FIGURED DIMENSIONS TO BE USED AT ALL TIME**DO NOT SCALE** MEASUREMENTS OFF DRAWINGS.

PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

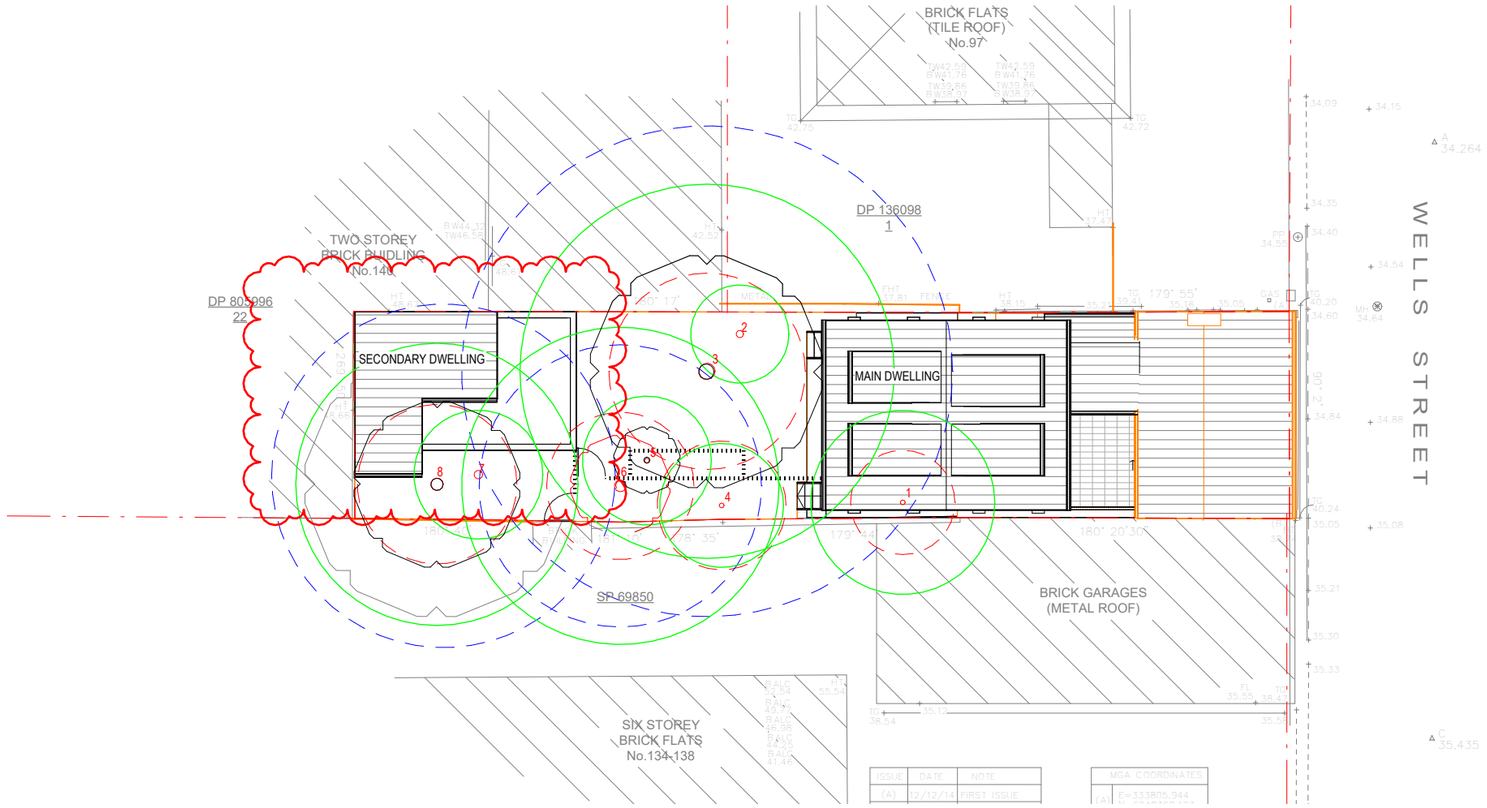
CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
SITE ANALYSIS

DRAWN	DESIGNED	CHECKED
SM	SM	SM

DRAWING SCALE 1 : 200
SHEET SIZE A3

PROJECT NUMBER SD18-0904
DRAWING NUMBER DA 1004
REVISION A



1 SITE PLAN

1 : 200

DA documentation prepared by Superdraft (Rev A)
and Updated by SN Architects (Rev B & C & D)

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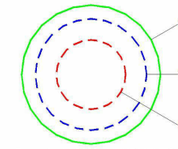
NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

LEGEND

- PROPOSED NEW WALLS
- EXISTING WALLS & COLUMN TO BE RETAINED
- EXISTING AREA TO BE REMOVED

Tree Legend



Rev.	Date	Description
C	17.11.2023	AMENDMENTS
B	23.06.2023	AMENDMENTS
A	12.07.2022	DA SUBMISSION

Scale
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1:200 at A3 1:100 at A1

REFERENCES

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

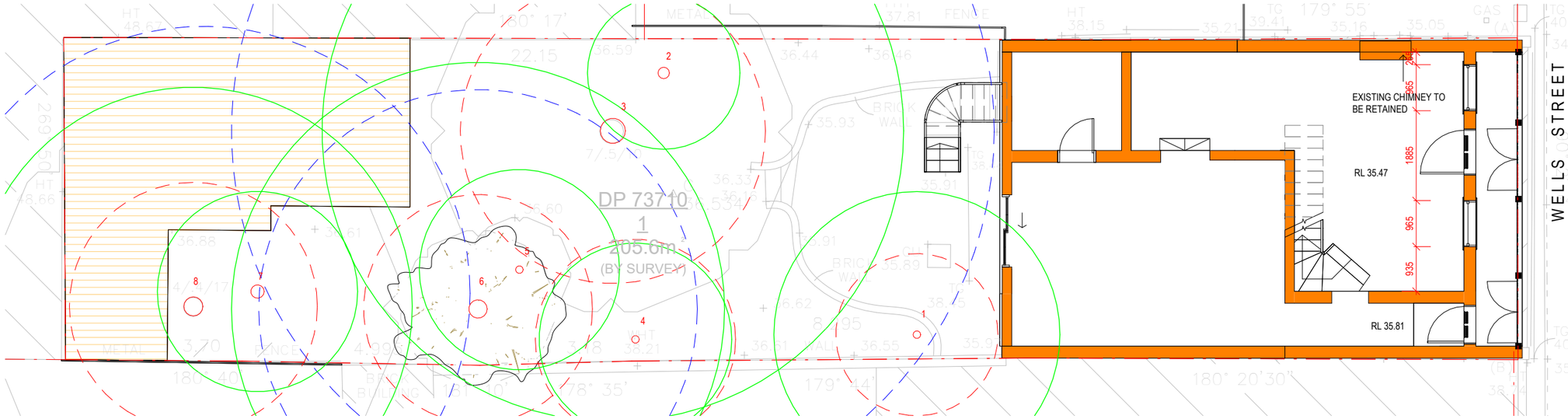
CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
SITE PLAN

DRAWN	DESIGNED	CHECKED
SM	SM	SM

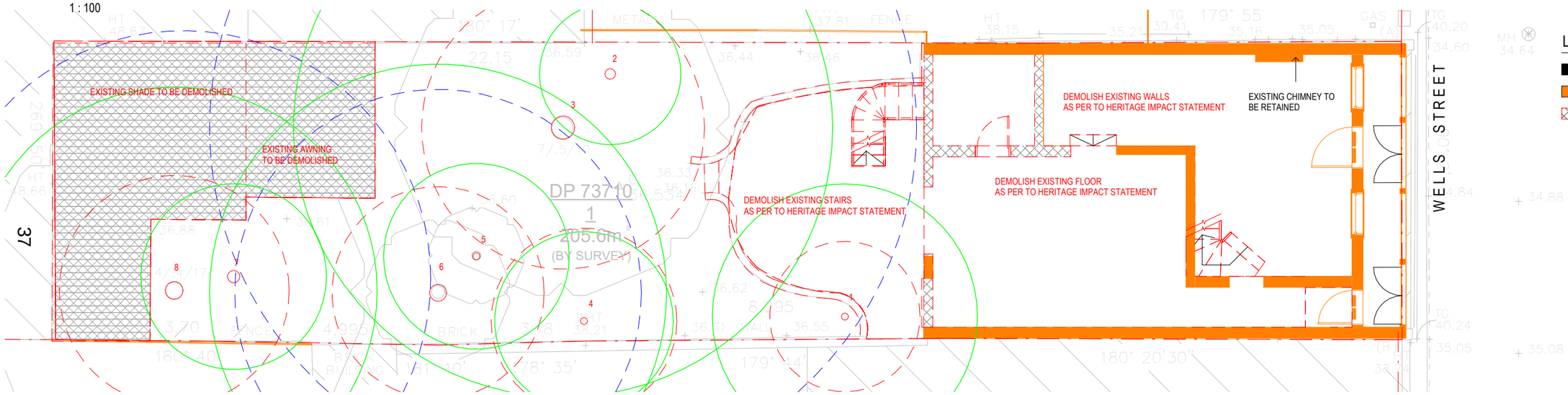
DRAWING SCALE	SHEET SIZE
As indicated	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
SD18-0904	DA 1005	C



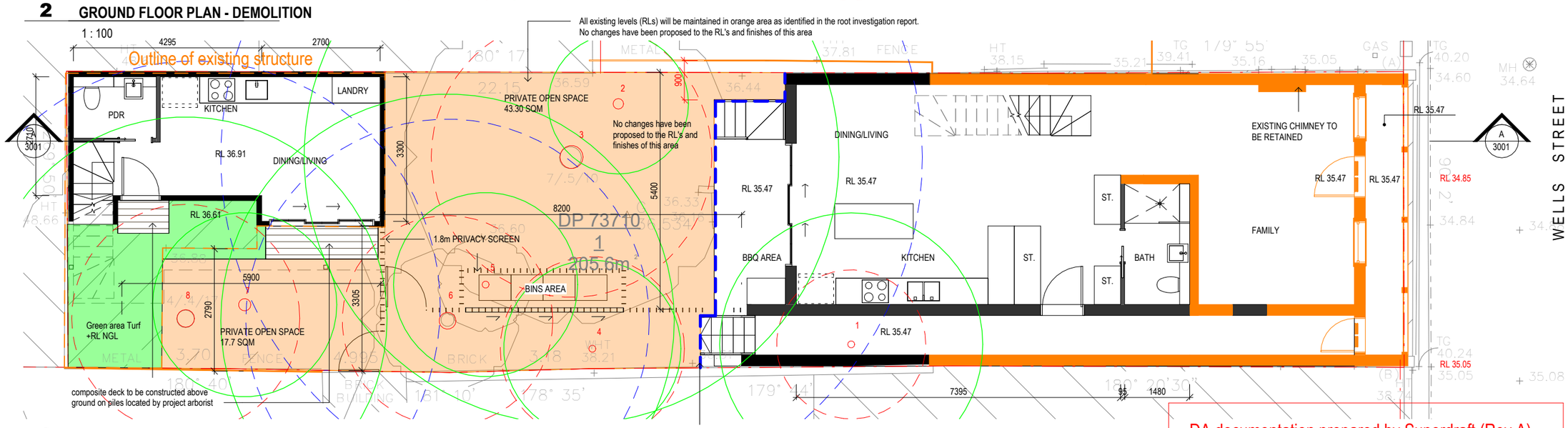
1 GROUND FLOOR PLAN - EXISTING

1 : 100



2 GROUND FLOOR PLAN - DEMOLITION

1 : 100



3 GROUND FLOOR PLAN - PROPOSED

1 : 100

Proposed Retaining
wall (blue dash line) as per the engineer's detail

DA documentation prepared by Superdraft (Rev A)
and Updated by SN Architects (Rev B & C & D)

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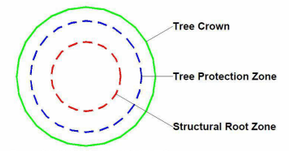
NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

LEGEND

- PROPOSED NEW WALLS
- EXISTING WALLS & COLUMN TO BE RETAINED
- EXISTING AREA TO BE REMOVED

Tree Legend



Rev.	Date	Description
C	24.08.2023	AMENDMENTS
B	23.06.2023	AMENDMENTS
A	12.07.2022	DA SUBMISSION

Scale m: 0 | 1:100 at A3 | 1:50 at A1 | 1 | 2 | 3 | 4

REFERENCES

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

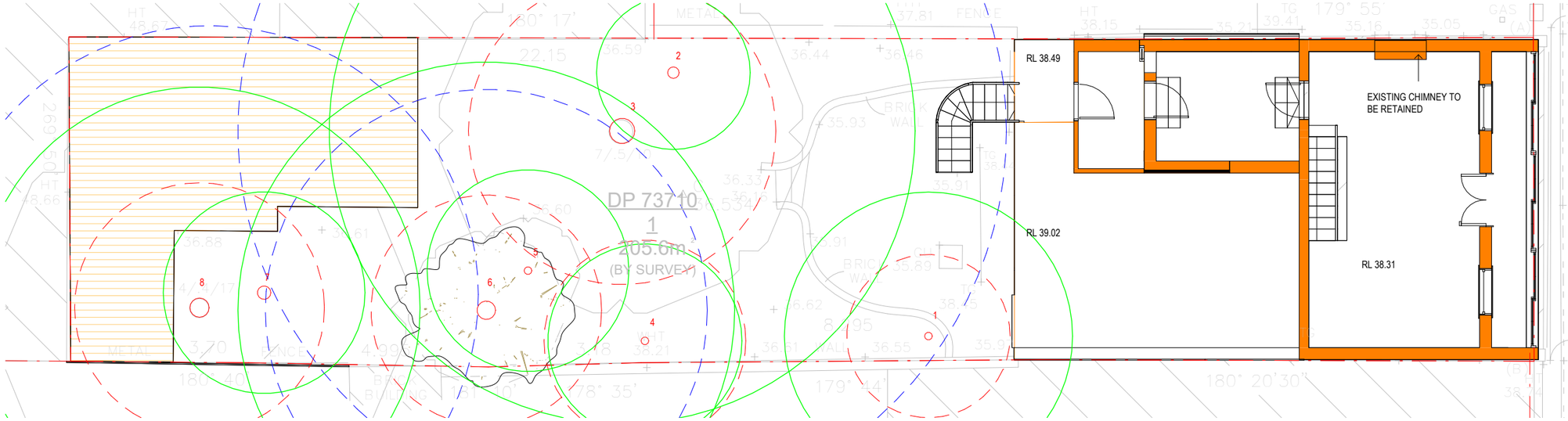
CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
GROUND LEVEL

DRAWN	DESIGNED	CHECKED
SM	SM	SM

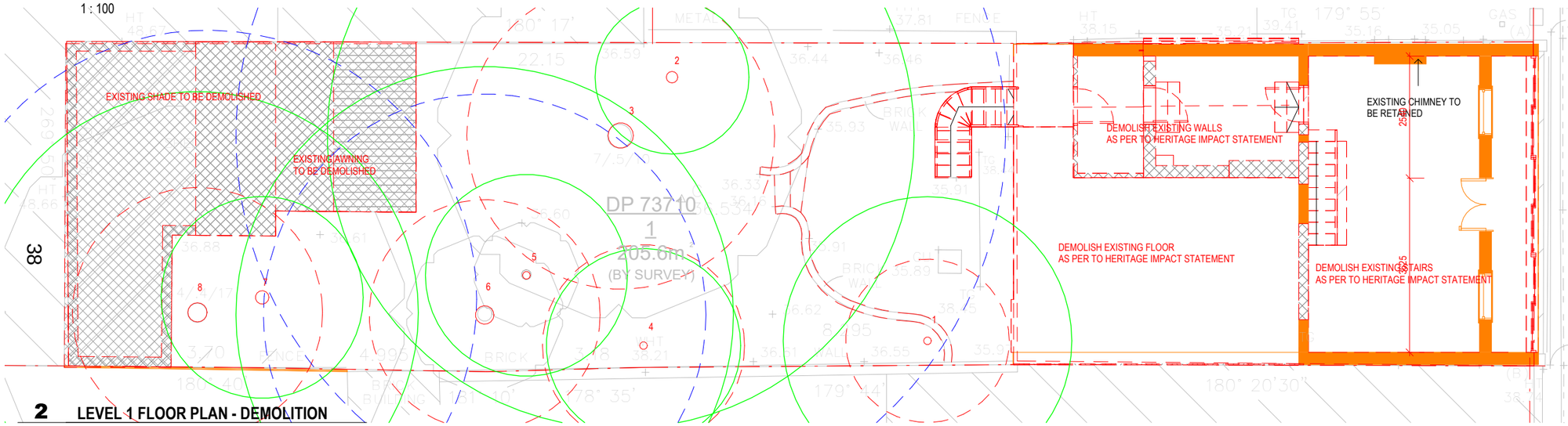
DRAWING SCALE	SHEET SIZE
1 : 100	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
SD18-0904	DA 1102	C



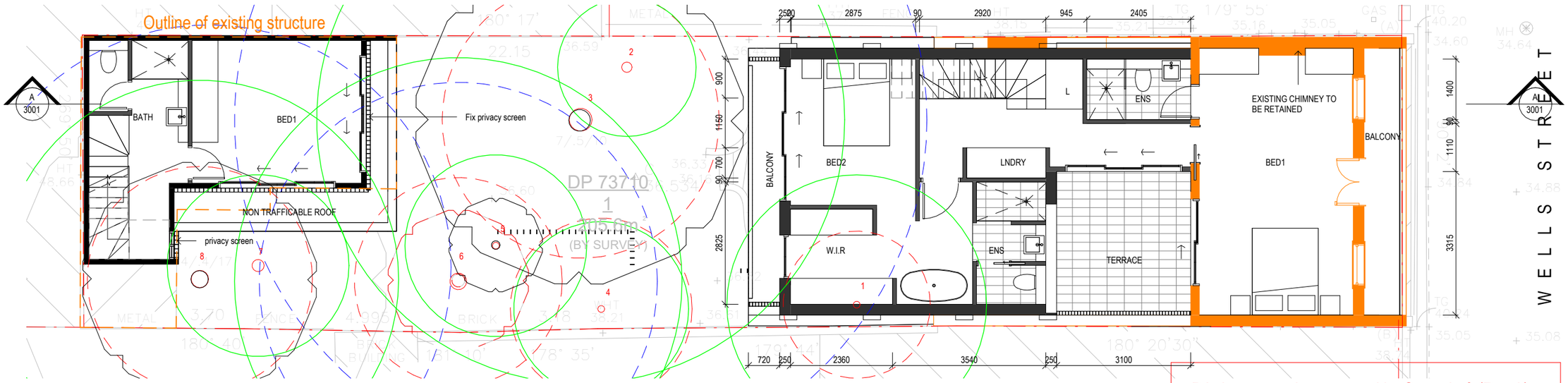
1 LEVEL 1 FLOOR PLAN - EXISTING

1 : 100



2 LEVEL 1 FLOOR PLAN - DEMOLITION

1 : 100



3 LEVEL 1 FLOOR PLAN - PROPOSED

1 : 100

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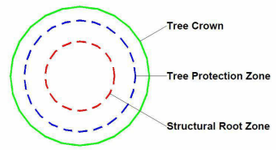
NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

LEGEND

- PROPOSED NEW WALLS
- EXISTING WALLS & COLUMN TO BE RETAINED
- EXISTING AREA TO BE REMOVED

Tree Legend



Rev.	Date	Description
C	24.08.2023	AMENDMENTS
B	23.06.2023	AMENDMENTS
A	12.07.2022	DA SUBMISSION

Scale m 0 1 2 3 4
1:100 at A3 1:50 at A1

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
LEVEL 01

DRAWN	DESIGNED	CHECKED
SM	SM	SM

DRAWING SCALE	SHEET SIZE
1 : 100	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
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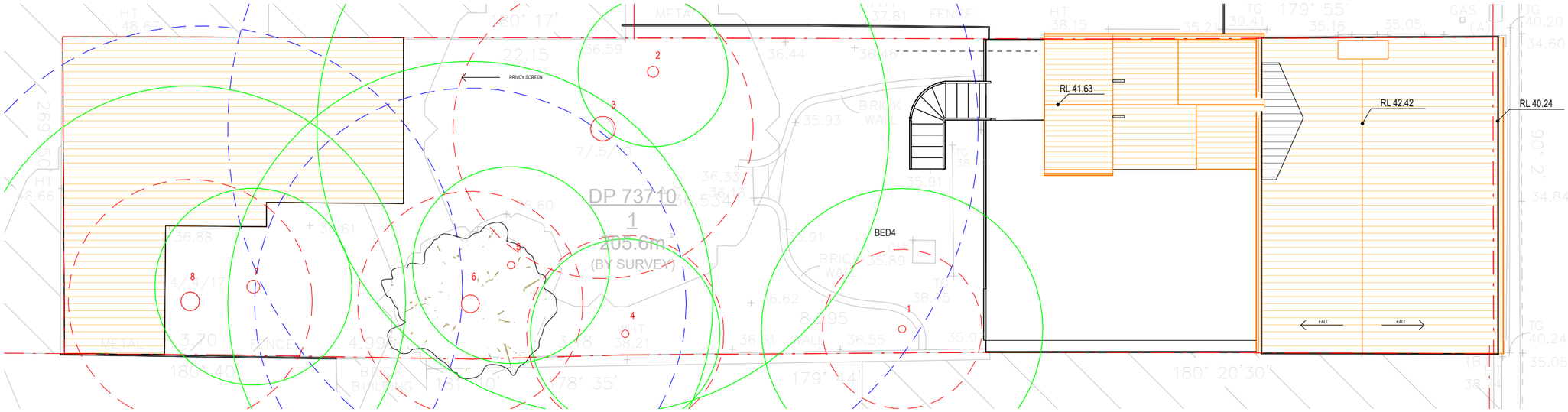

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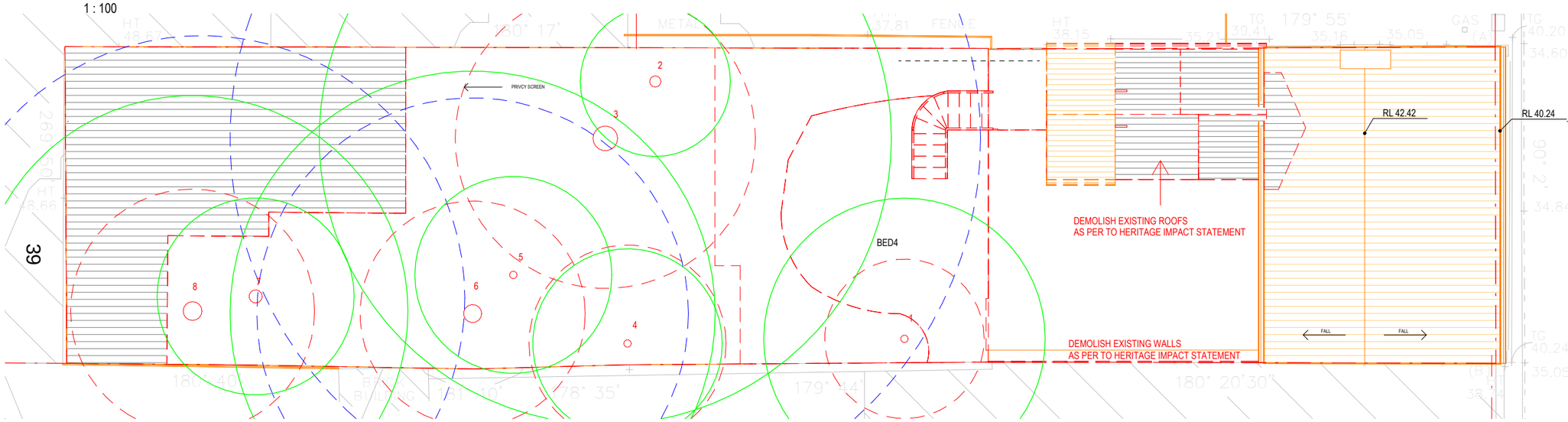
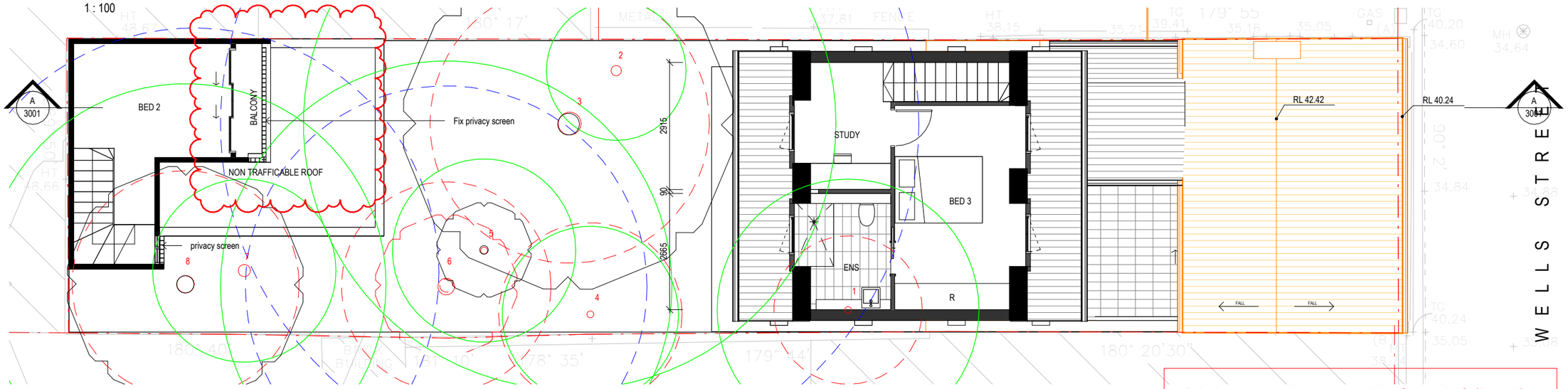
1 : 100



2 LEVEL 2 FLOOR PLAN - DEMOLITION

1 : 100



3 LEVEL 2 FLOOR PLAN - PROPOSED

1 : 100

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WELLS STREET

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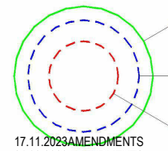
NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

N

LEGEND

- PROPOSED NEW WALLS
- EXISTING WALLS & COLUMN TO BE RETAINED
- EXISTING AREA TO BE REMOVED

Tree Legend



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Scale
m 0 1 2 3 4
1:100 at A3 1:50 at A1

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

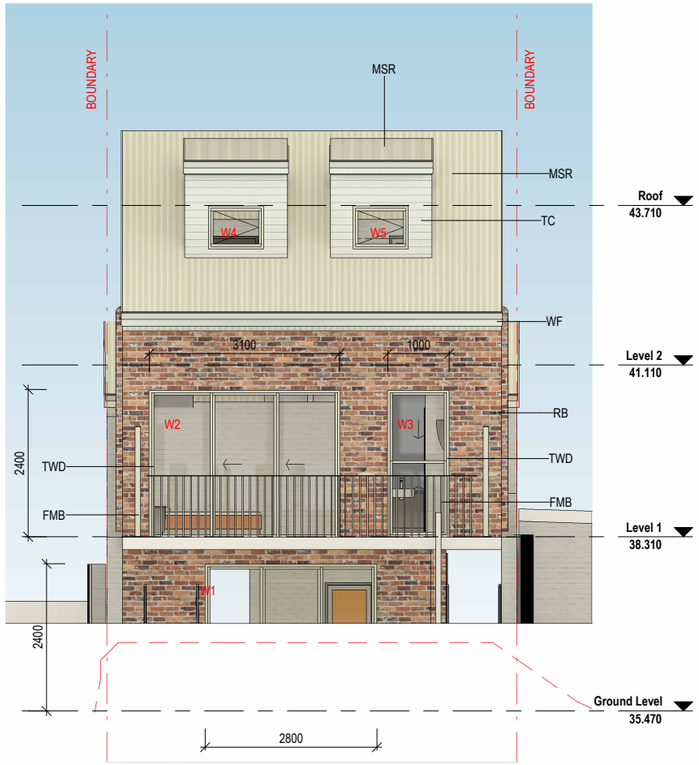
CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
LEVEL 02

DRAWN	DESIGNED	CHECKED
SM	SM	SM

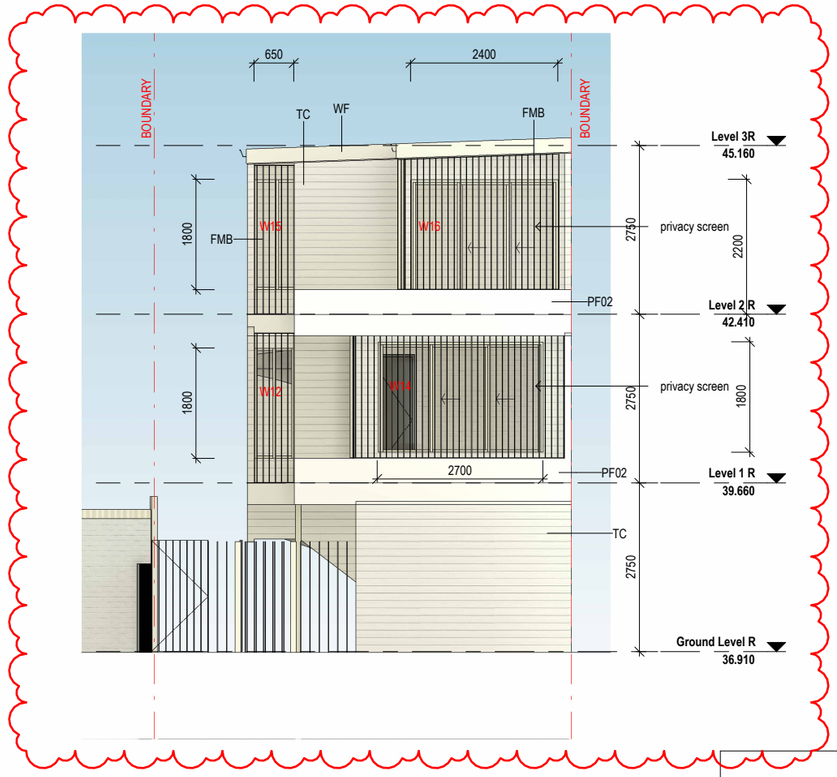
DRAWING SCALE: 1 : 100
SHEET SIZE: A3

PROJECT NUMBER: SD18-0904
DRAWING NUMBER: DA 1104
REVISION: D



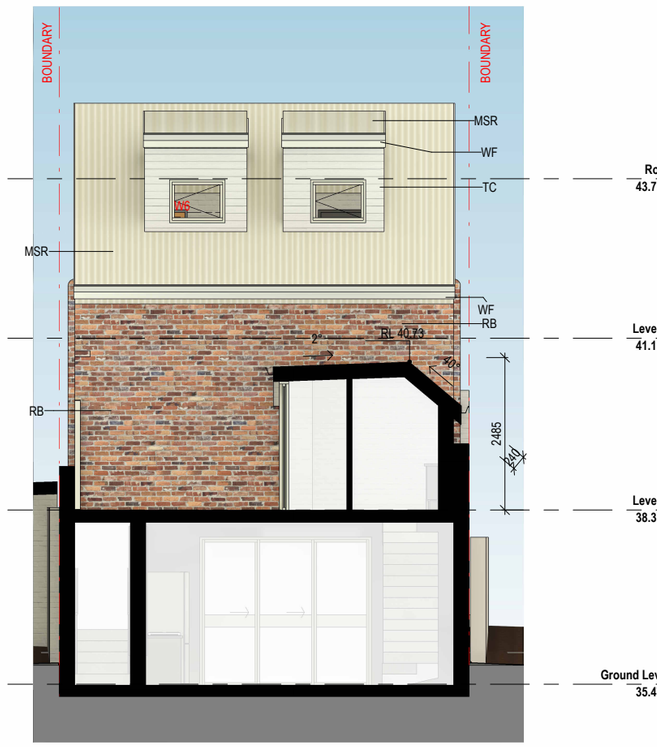
E1 COURTYARD ELEVATION 1

1 : 100



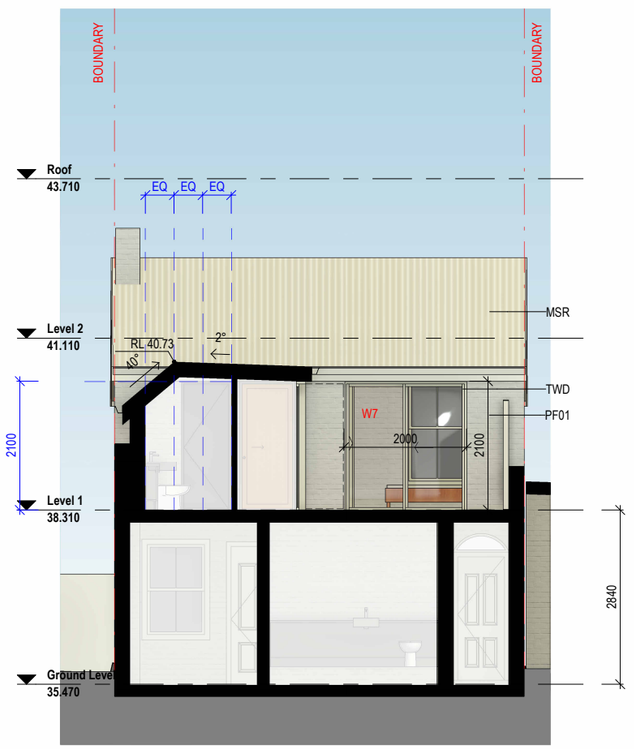
E2 COURTYARD ELEVATION 2

1 : 100



C1 SECTION B

1 : 100



C2 SECTION C

1 : 100

MATERIAL LEGEND -

	FMB	white powder coated metal flat bar balustrade and screen dulux Surfmist®
	MSR	STEEL ROOFING Colorbond® Surfmist®
	PF01	white painted brick - dulux neutral white
	PF02	PAINTED FINISH - DULUX PALE TENDRIL
	RB	Austral san selmo reclaimed original
	TC	white painted timber cladding - dulux neutral white
	TWD	white timber frame doors and windows - dulux neutral white
	WF	white painted fascia and guttering - dulux neutral white

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NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

Rev.	Date	Description
D	17.11.2023	AMENDMENTS
C	24.08.2023	AMENDMENTS
B	23.06.2023	AMENDMENTS
A	12.07.2022	DA SUBMISSION

Scale
m 0 2 4 6 8
1:200 at A3 1:100 at A1

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

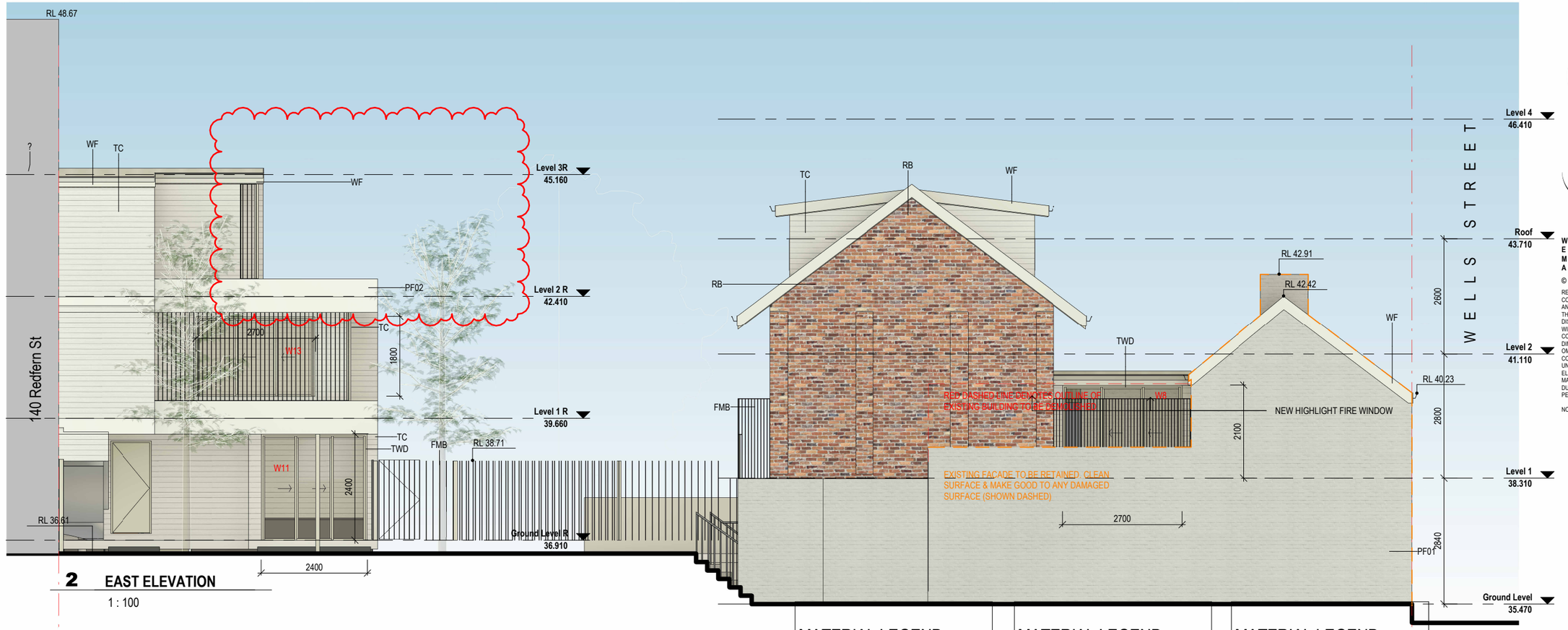
CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
ELEVATIONS_ SHEET 1

DRAWN	DESIGNED	CHECKED
SM	SM	SM

DRAWING SCALE	SHEET SIZE
1 : 100	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
SD18-0904	DA 2001	D



2 EAST ELEVATION

1 : 100

MATERIAL LEGEND -

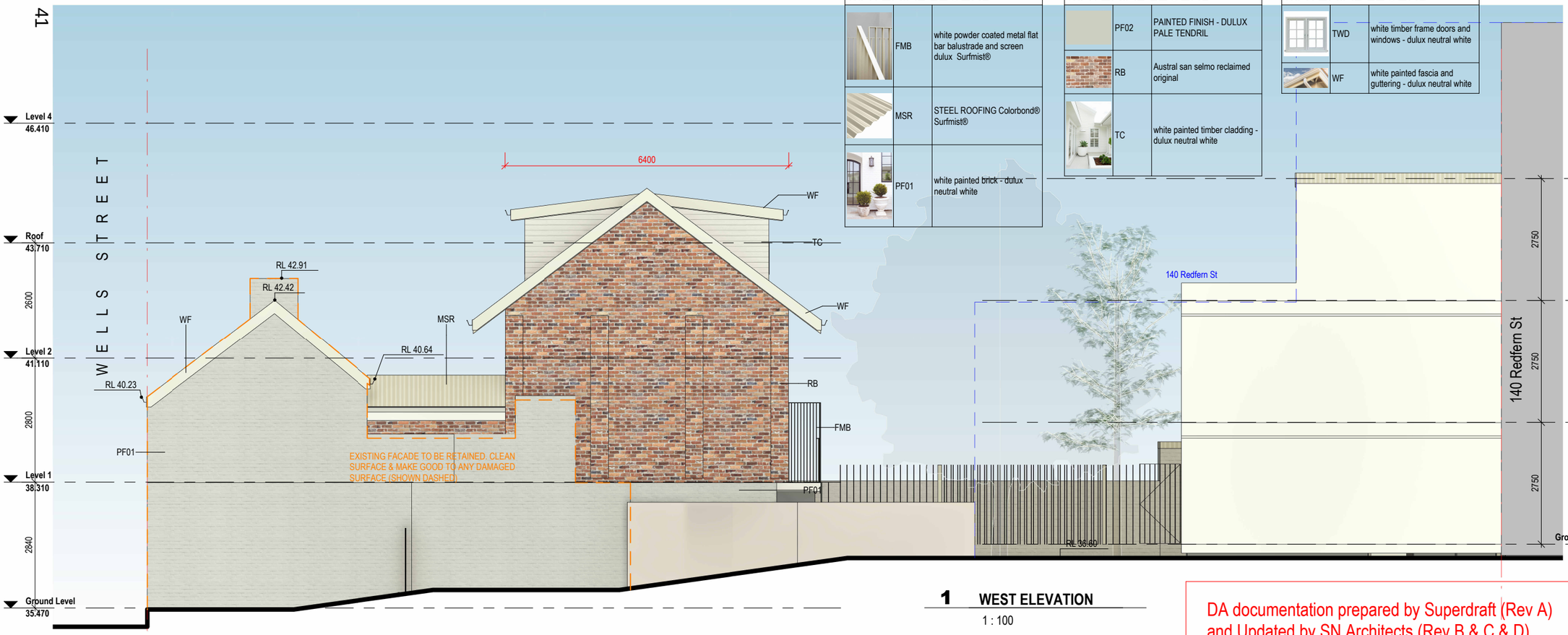
	FMB	white powder coated metal flat bar balustrade and screen dulux Surfmist®
	MSR	STEEL ROOFING Colorbond® Surfmist®
	PF01	white painted brick - dulux neutral white

MATERIAL LEGEND -

	PF02	PAINTED FINISH - DULUX PALE TENDRIL
	RB	Austral san selmo reclaimed original
	TC	white painted timber cladding - dulux neutral white

MATERIAL LEGEND -

	TWD	white timber frame doors and windows - dulux neutral white
	WF	white painted fascia and guttering - dulux neutral white



1 WEST ELEVATION

1 : 100

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Scale
m 0 2 4 6 8
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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
ELEVATIONS_SHEET 2

DRAWN	DESIGNED	CHECKED
SM	SM	SM

DRAWING SCALE	SHEET SIZE
1 : 100	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
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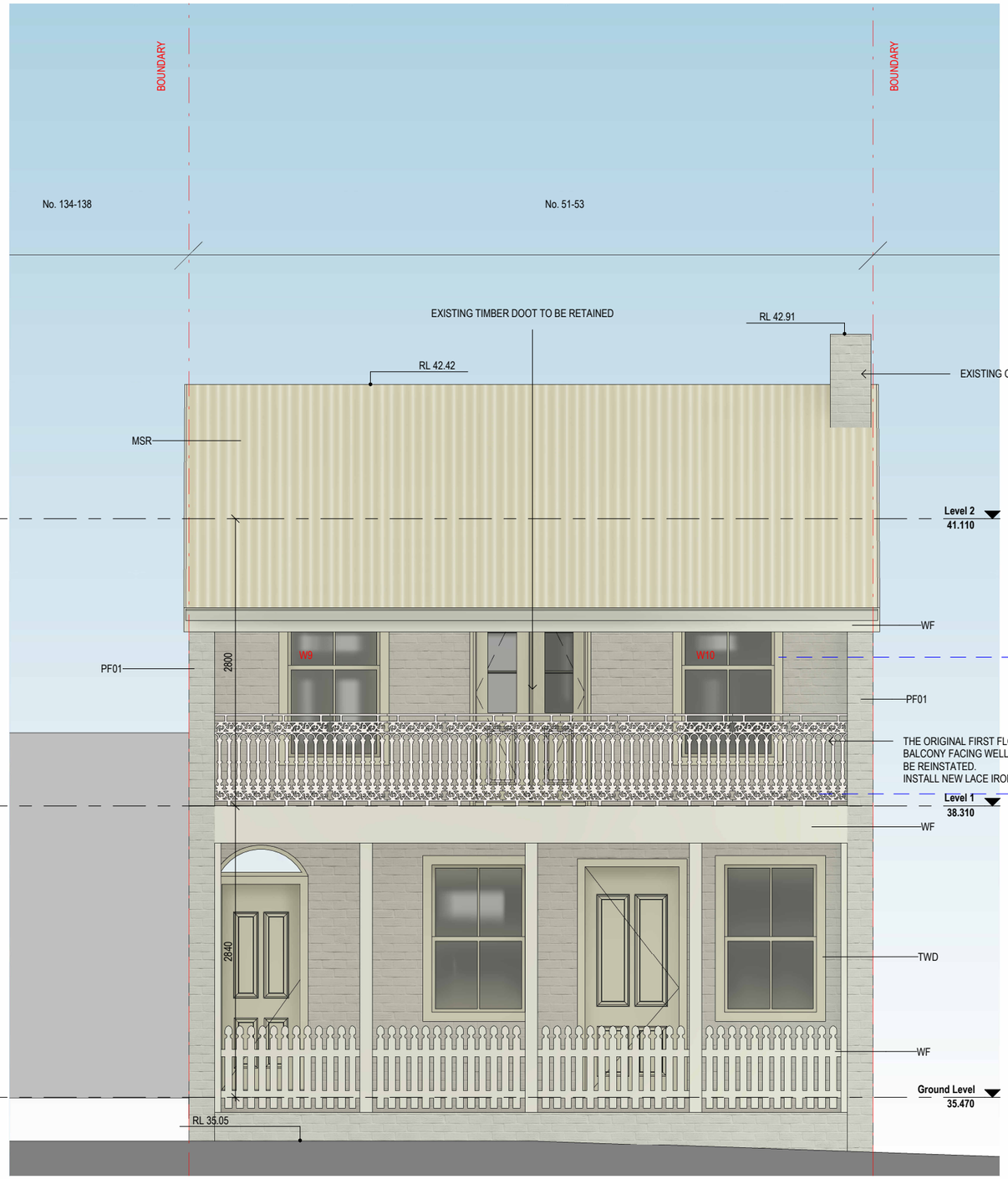

1 **FRONT ELEVATION**

1 : 50



1800MM (H) X 900MM (W)
4 LIGHT SINGLE UNIT DOUBLE HUNG WINDOW

SYDNEY WOODWORKERS - WHITE PAINTED - DULUX NEUTRAL WHITE

C22



Travistone Double Sided
Diecast Panel
615 X 885mm - W/ Lugs

CHATTERTON LACEWORK - WHITE PAINTED - DULUX NEUTRAL WHITE

MATERIAL LEGEND -

	FMB	white powder coated metal flat bar balustrade and screen dulux Surfmist®
	MSR	STEEL ROOFING Colorbond® Surfmist®
	PF01	white painted brick - dulux neutral white
	PF02	PAINTED FINISH - DULUX PALE TENDRIL
	RB	Austral san selmo reclaimed original
	TC	white painted timber cladding - dulux neutral white
	TWD	white timber frame doors and windows - dulux neutral white
	WF	white painted fascia and guttering - dulux neutral white

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

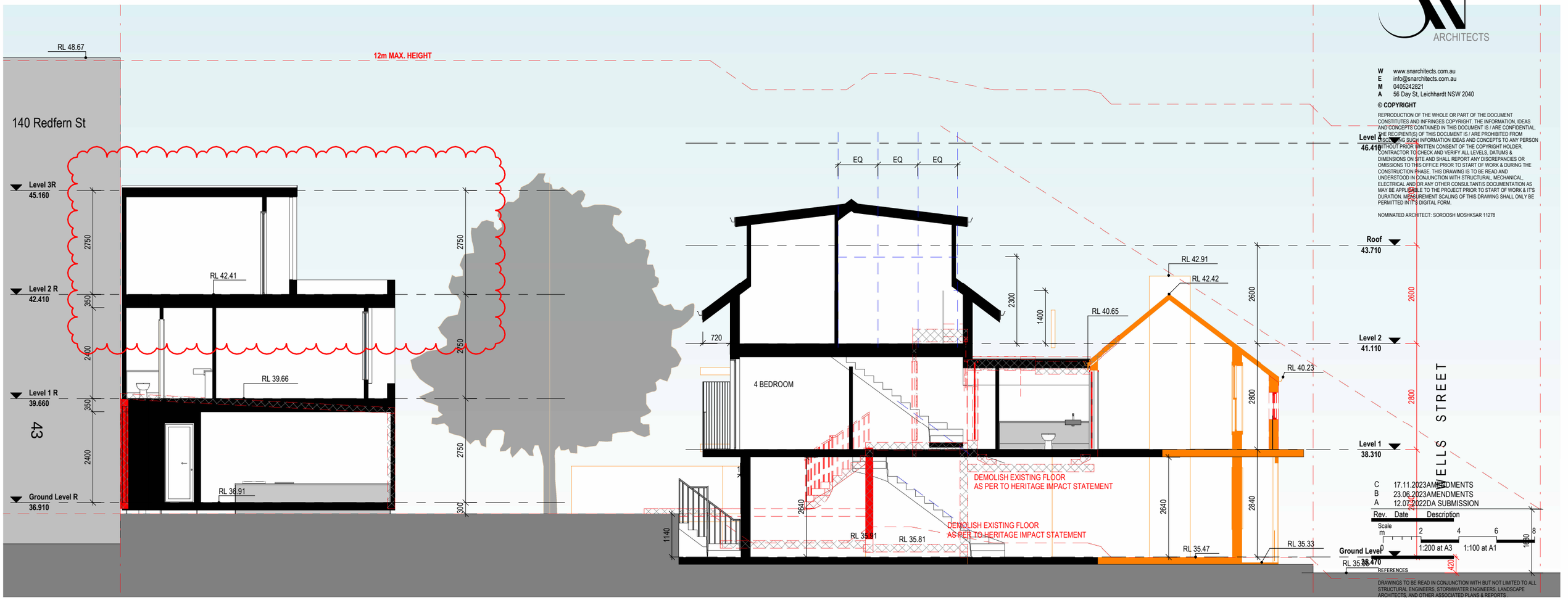
CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
ELEVATIONS_SHEET 3

DRAWN	DESIGNED	CHECKED
Author	Checker	Approver

DRAWING SCALE: 1 : 50
SHEET SIZE: A3

PROJECT NUMBER: SD18-0904
DRAWING NUMBER: DA 2003
REVISION: B



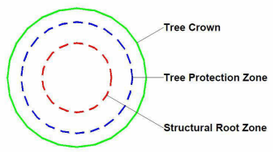
A SECTION A

1 : 100

LEGEND

- PROPOSED NEW WALLS
- EXISTING WALLS & COLUMN TO BE RETAINED
- EXISTING AREA TO BE REMOVED

Tree Legend



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NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

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A	12.07.2022	DA SUBMISSION

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1:200 at A3 1:100 at A1

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
SECTION A

DRAWN	DESIGNED	CHECKED
SM	SM	SM

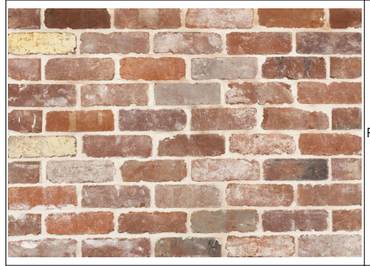
DRAWING SCALE	SHEET SIZE
1 : 100	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
SD18-0904	DA 3001	C

MATERIAL LEGEND

	FMB	white powder coated metal flat bar balustrade and screen dulux Surfmist®
	MSR	STEEL ROOFING Colorbond® Surfmist®
	PF01	white painted brick - dulux neutral white

MATERIAL LEGEND

	PF02	PAINTED FINISH - DULUX PALE TENDRIL
	RB	Austral san selmo reclaimed original
	TC	white painted timber cladding - dulux neutral white
	TWD	white timber frame doors and windows - dulux neutral white
	WF	white painted fascia and guttering - dulux neutral white

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NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

Rev.	Date	Description
B	23.06.2023	AMENDMENTS
A	12.07.2022	DA SUBMISSION

Scale
m 0 2 4 6 8
1:200 at A3 1:100 at A1

REFERENCES

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

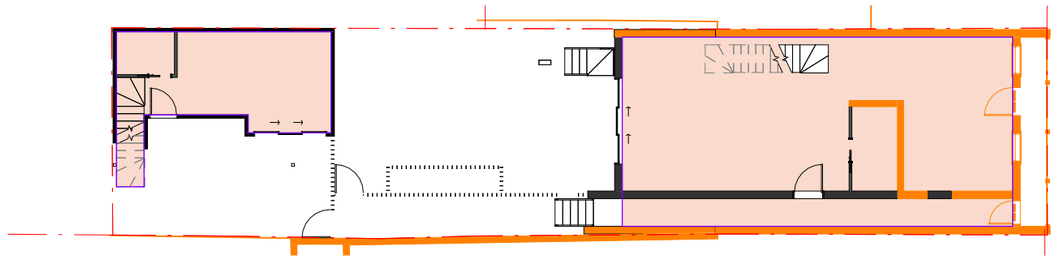
CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
FINISHES SCHEDULE

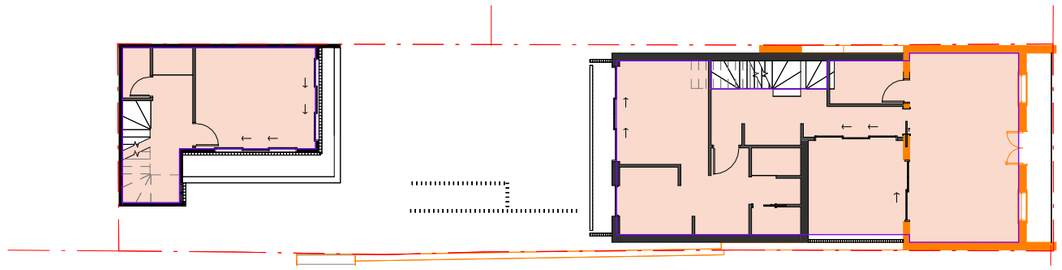
DRAWN	DESIGNED	CHECKED
SM	SM	SM

DRAWING SCALE SHEET SIZE
A3

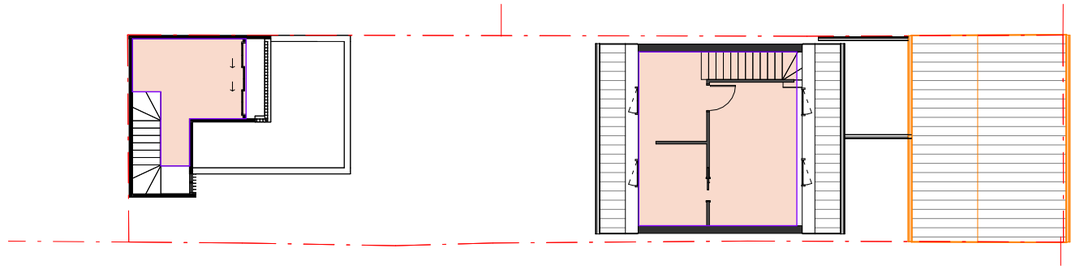
PROJECT NUMBER	DRAWING NUMBER	REVISION
SD18-0904	DA 7041	B



G Ground Level



1 Level 1



2 Level 2

45

Sydney Local Environmental Plan

SITE AREA	205.6m²
ZONING	B2
RELEVANT CONTROLS	Sydney Local Environmental Plan
COUNCIL	Sydney
LOT / DP No.	NOT AFFECTED
FSR	1.5:1
HEIGHT OF BUILDING	12m
HERITAGE	Conservation Area - General
ACID SULPHATE SOILS	Class 5
KEY SITE	N/A
FLOOD PLANNING AREA	N/A
LAND RESERVATION ACQUISITION	N/A
NATURAL RESOURCE - BIODIVERSITY	N/A
FORESHORE BUILDING LINE	N/A

Area Schedule (Gross Building)

Level	Area
main dwelling	
Ground Level	78.47 m²
Level 1	72.63 m²
Level 2	29.18 m²
	180.29 m²
secondary dwelling	
Ground Level	22.65 m²
Level 1	24.04 m²
Level 2	10.30 m²
	56.99 m²
Grand total	237.27 m²

AREA CALCULATIONS - FLOOR SPACE RATIO

SITE AREA	205.6m²
PERMISSIBLE FLOOR SPACE RATIO	1.5:1
PERMISSIBLE GFA	308.4m²
PROPOSED FLOOR SPACE RATIO	1.15:1
PROPOSED GFA	237.27m²

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NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

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A 12.07.2022DA SUBMISSION

Rev. Date Description

Scale m 0 2 4 6 8

1:200 at A3 1:100 at A1

REFERENCES

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PROJECT STAGE

DA

PROJECT DETAILS

alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

CLIENT DETAILS

Tom Tung Cat

DRAWING TITLE

GFA CALCULATION

DRAWN	DESIGNED	CHECKED
SM	SM	SM

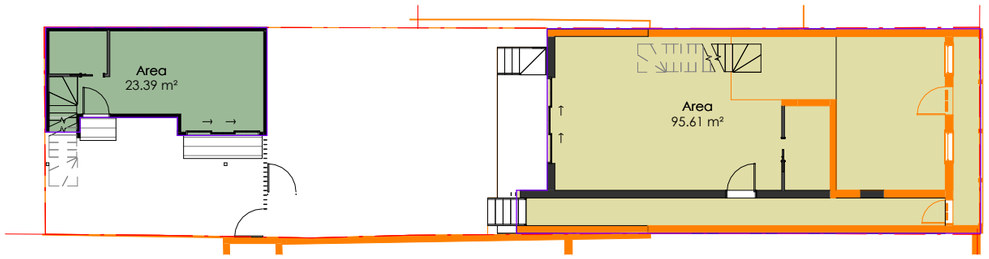
DRAWING SCALE 1 : 200

SHEET SIZE A3

PROJECT NUMBER SD18-0904

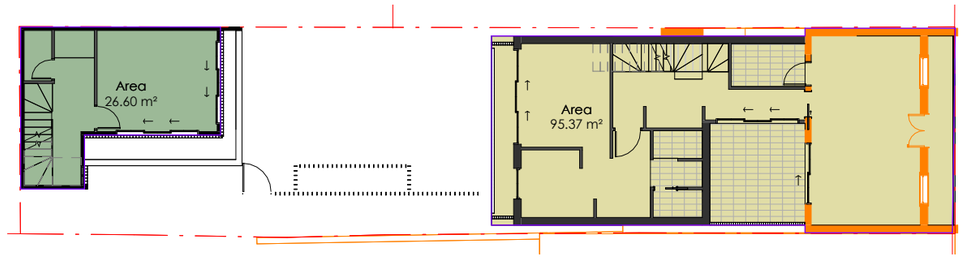
DRAWING NUMBER DA 7001

REVISION A



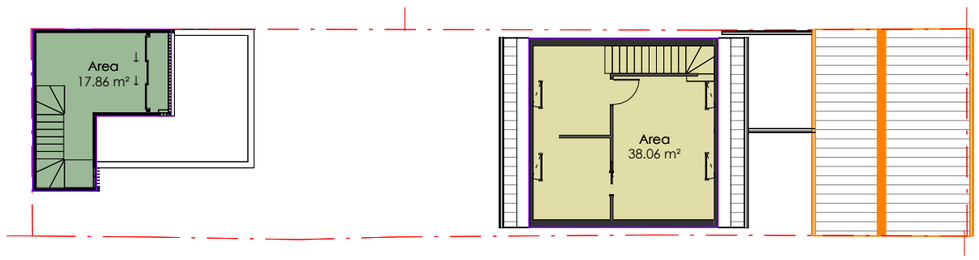
1 Ground Level

1 : 200



2 Level 1

1 : 200



3 Level 2

1 : 200

Total Floor Area Calculation	
Level	Area

main dwelling

Ground Level	95.61 m²
Level 1	95.37 m²
Level 2	38.06 m²
	229.04 m²

secondary dwelling

Ground Level	23.39 m²
Level 1	26.60 m²
Level 2	17.86 m²
	67.85 m²

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NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

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A 17.11.2023AMENDMENTS

Rev. Date Description

Scale m 0 2 4 6 8

1:200 at A3 1:100 at A1

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

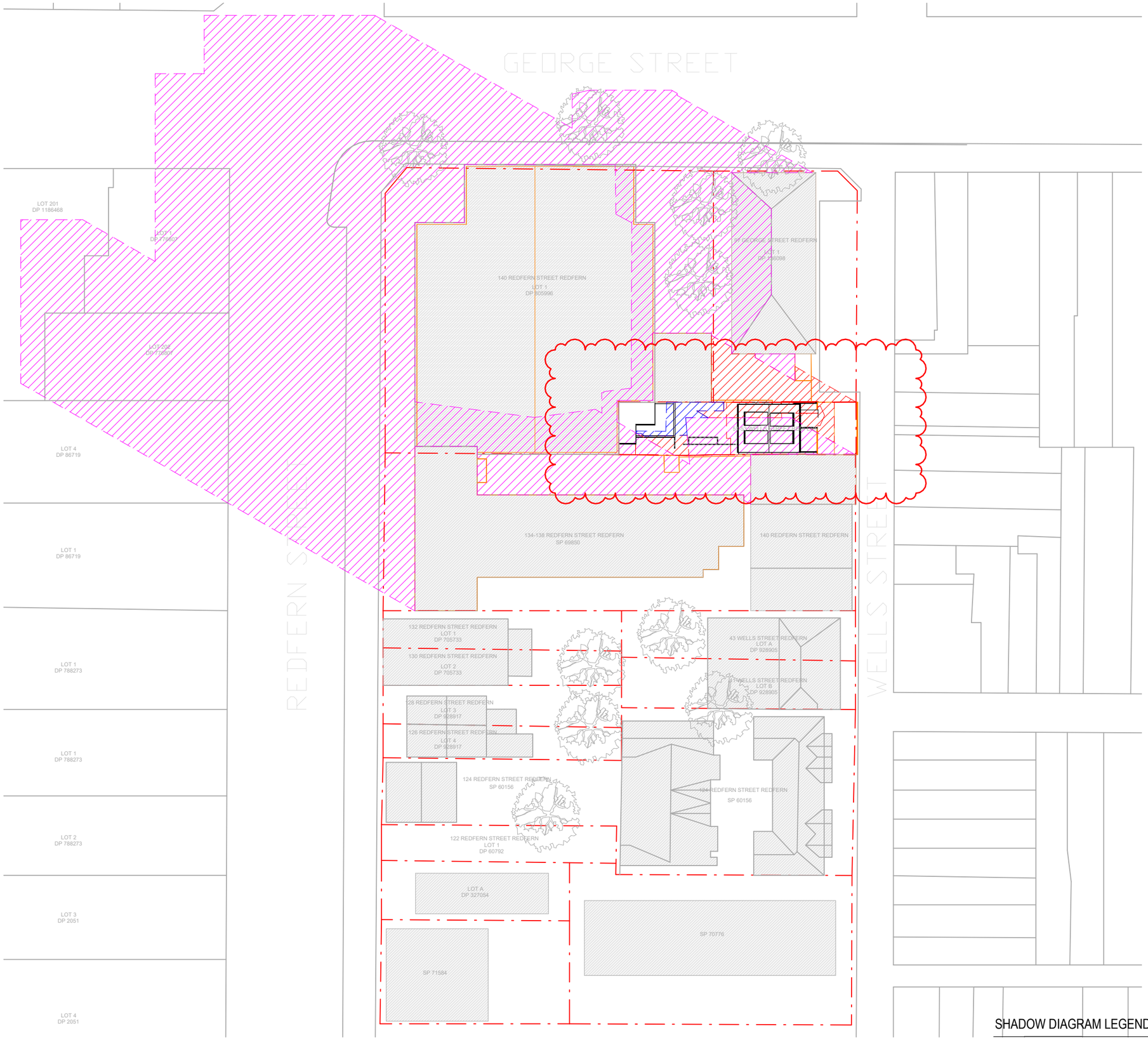
CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
TOTAL FLOOR AREA

DRAWN	DESIGNED	CHECKED
Author	Checker	Approver

DRAWING SCALE	SHEET SIZE
1 : 200	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
SD18-0904	7002	A



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1 SHADOW DIAGRAM-21JUNE-09AM

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SHADOW DIAGRAM LEGEND

- SHADOWS CAST BY EXISTING NEIGHBOUR
- SHADOWS CAST BY EXISTING BUILDING
- ADDITIONAL SHADOWS CAST BY PROPOSED BUILDING

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NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

Rev.	Date	Description
B	17.11.2023	AMENDMENTS
A	23.06.2023	AMENDMENTS

Scale m: 0 2 4 6 8 — 1:200 at A3 1:100 at A1

REFERENCES

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
SHADOW DIAGRAM-21JUNE-09AM

DRAWN	DESIGNED	CHECKED
SM	SM	SM

DRAWING SCALE	SHEET SIZE
As indicated	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
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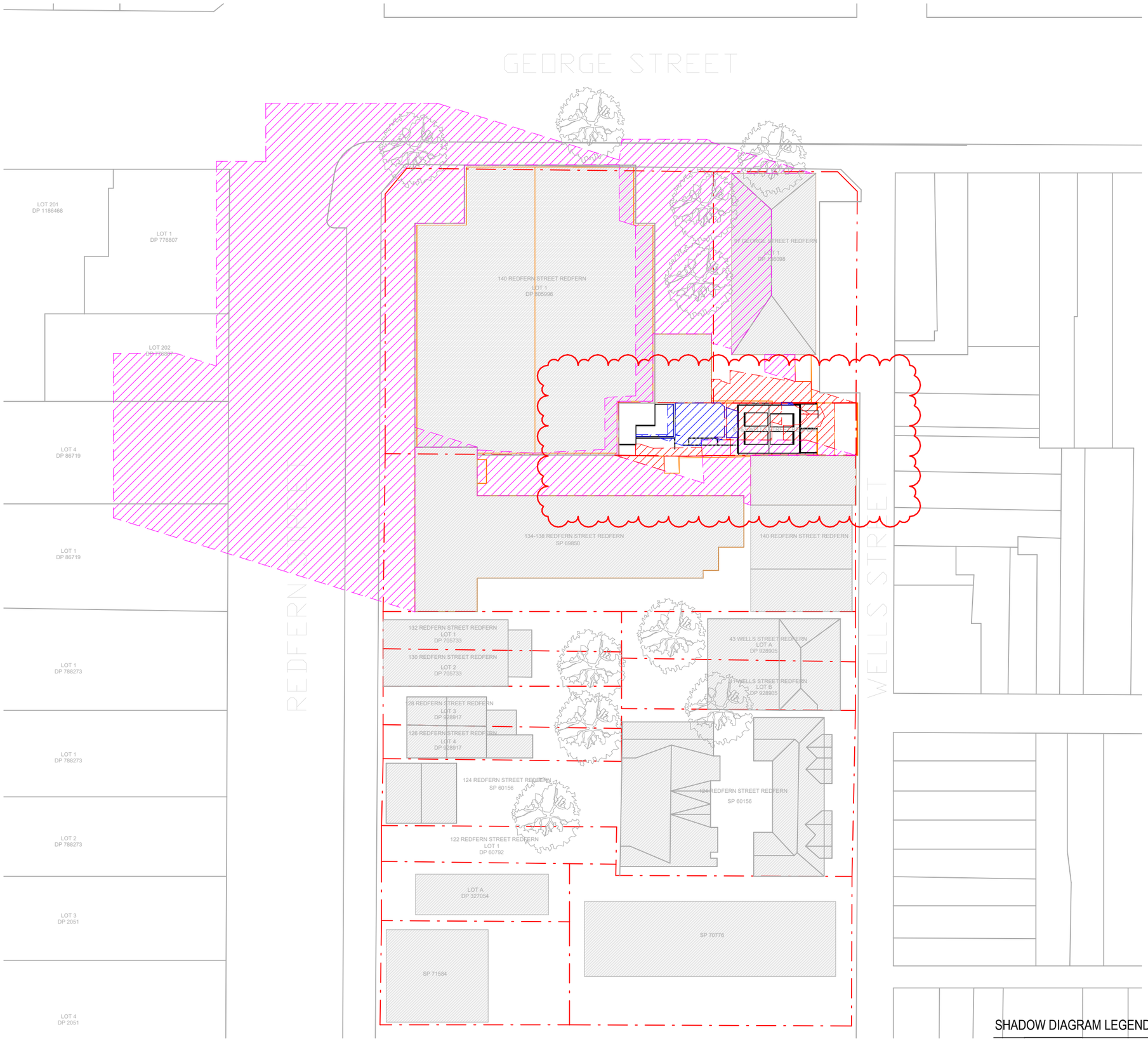

1 SHADOW DIAGRAM-21JUNE-10AM

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SHADOW DIAGRAM LEGEND

- SHADOWS CAST BY EXISTING NEIGHBOUR
- SHADOWS CAST BY EXISTING BUILDING
- ADDITIONAL SHADOWS CAST BY PROPOSED BUILDING

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Rev.	Date	Description
B	17.11.2023	AMENDMENTS
A	23.06.2023	AMENDMENTS

Scale
m 0 2 4 6 8
1:200 at A3 1:100 at A1

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

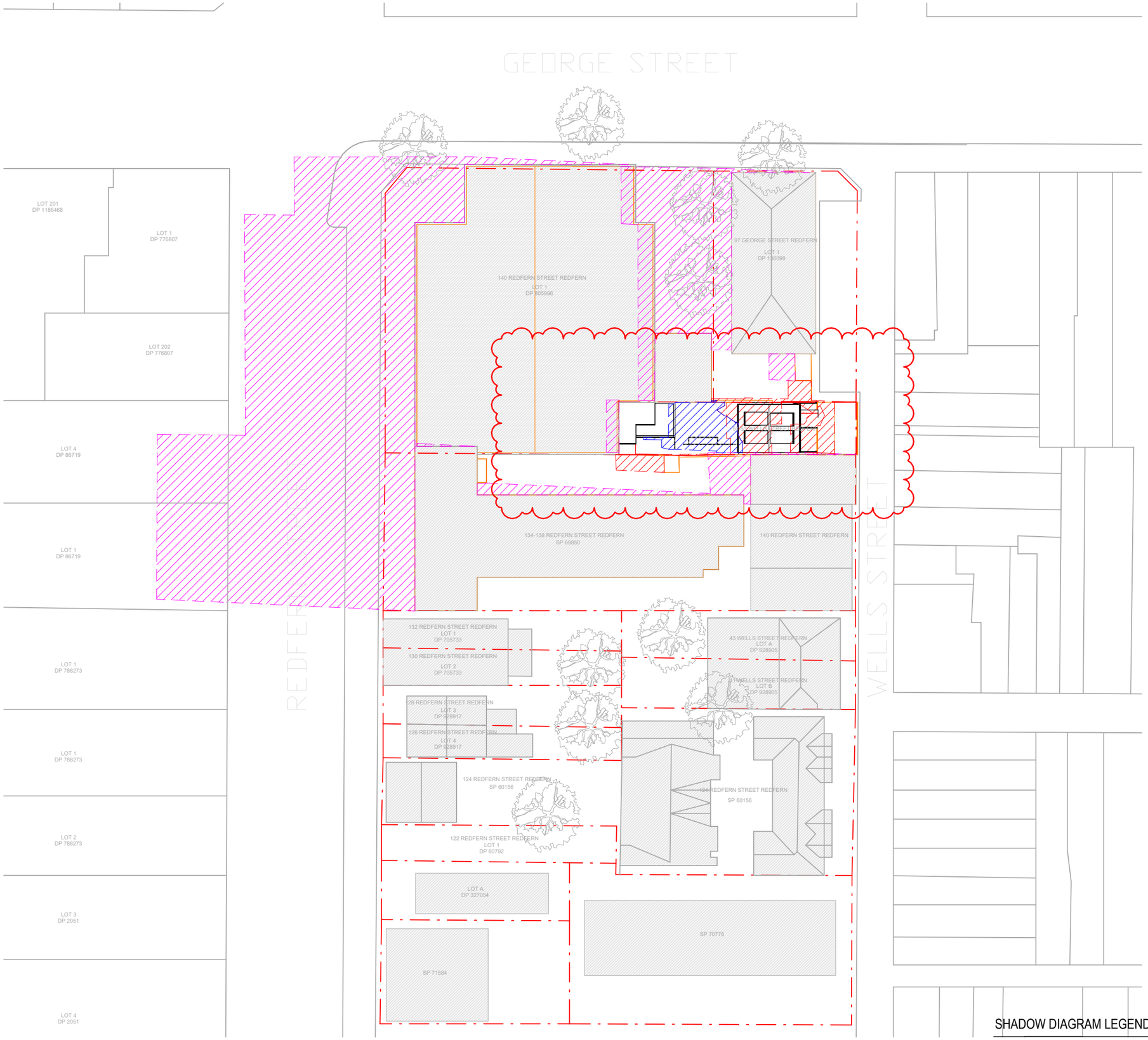
CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
SHADOW DIAGRAM-21JUNE-10AM

DRAWN	DESIGNED	CHECKED
SM	SM	SM

DRAWING SCALE	SHEET SIZE
As indicated	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
SD18-0904	DA 6002	B



1 SHADOW DIAGRAM-21JUNE-11AM

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SHADOW DIAGRAM LEGEND

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NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

Rev.	Date	Description
B	17.11.2023	AMENDMENTS
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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
SHADOW DIAGRAM-21JUNE-11AM

DRAWN	DESIGNED	CHECKED
SM	SM	SM

DRAWING SCALE: As indicated
SHEET SIZE: A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
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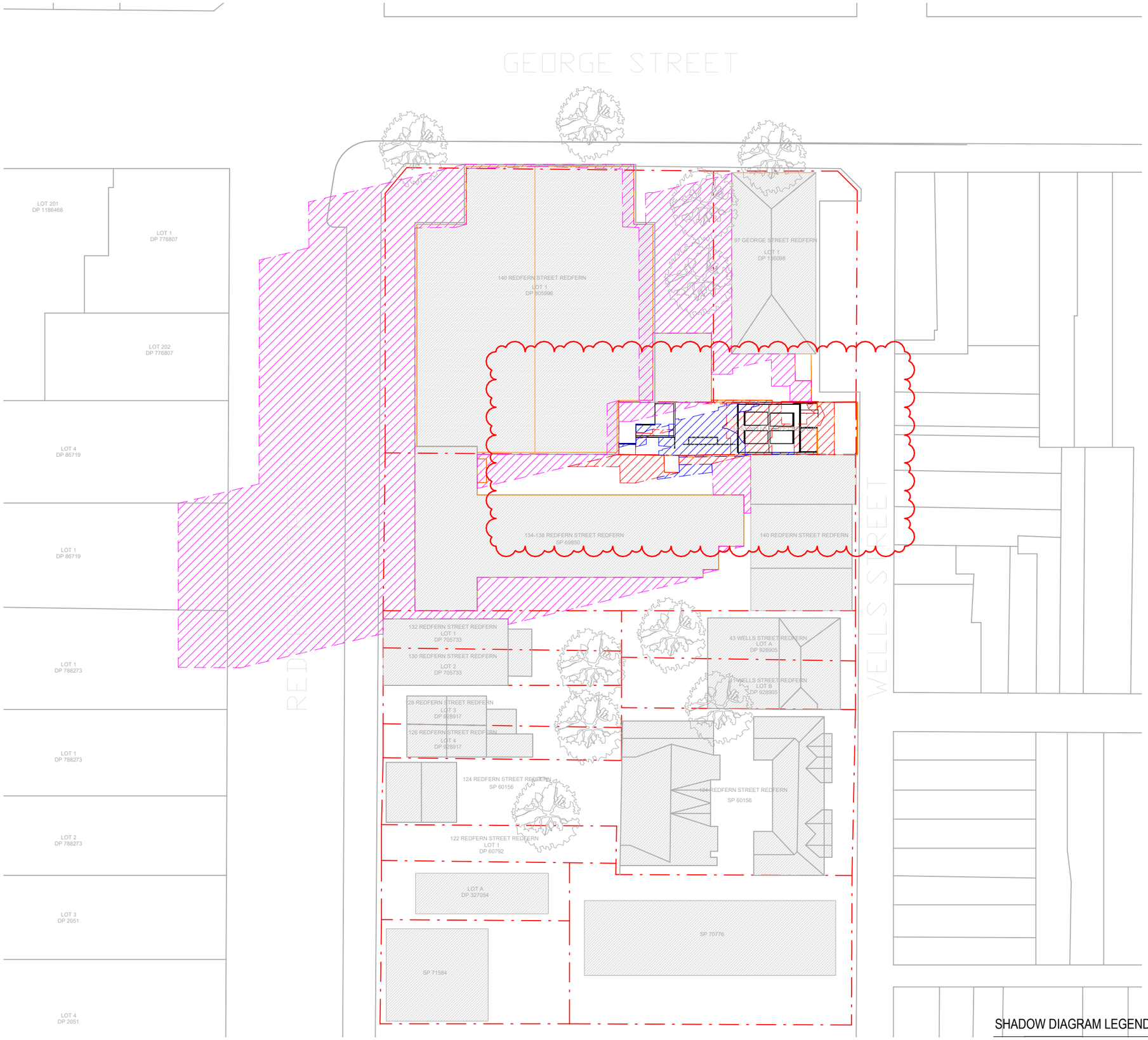

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1 SHADOW DIAGRAM-21JUNE-12AM

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SHADOW DIAGRAM LEGEND

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NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

Rev.	Date	Description
B	17.11.2023	AMENDMENTS
A	23.06.2023	AMENDMENTS

Scale
m 0 2 4 6 8
1:200 at A3 1:100 at A1

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

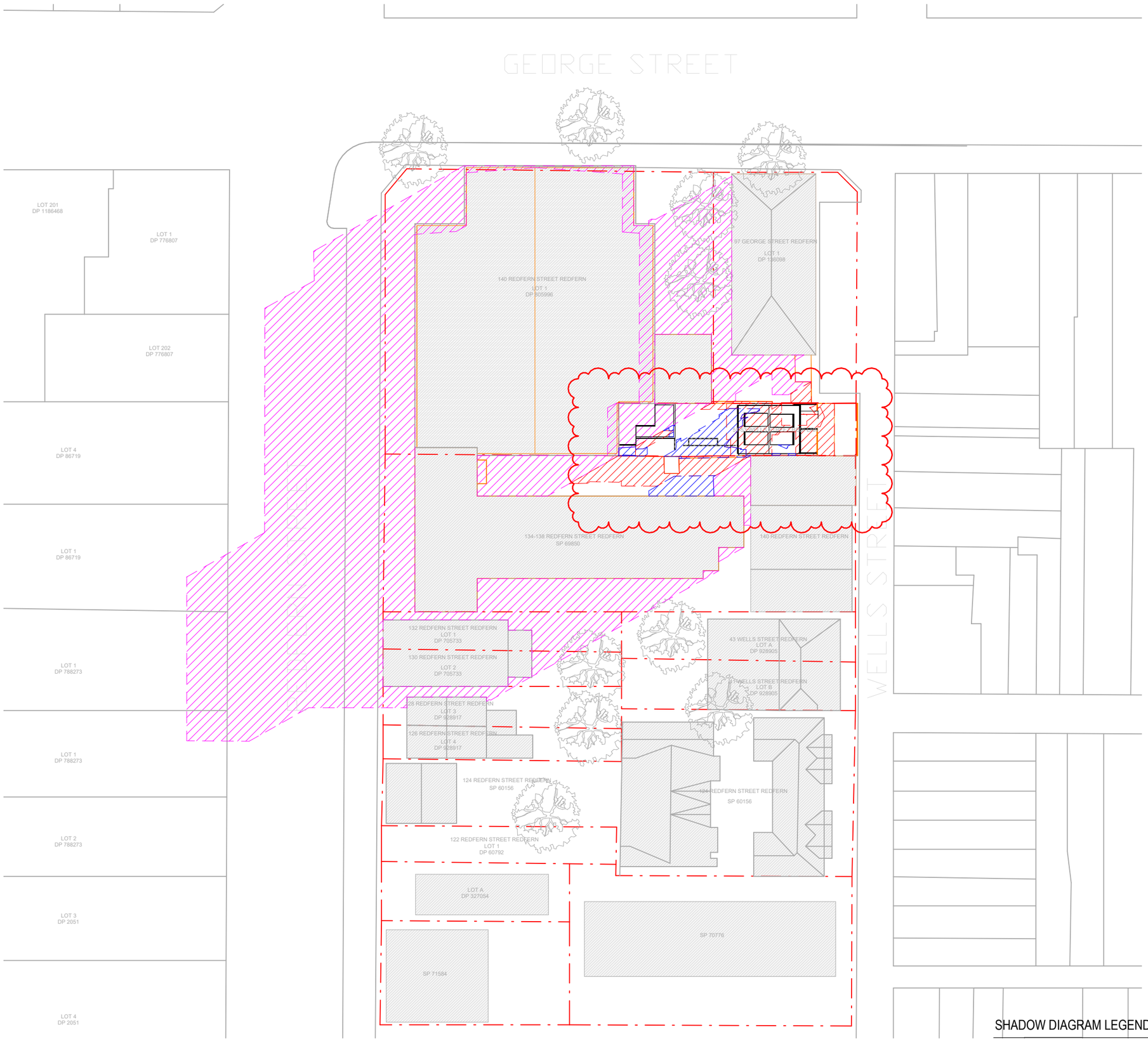
CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
SHADOW DIAGRAM-21JUNE-12AM

DRAWN	DESIGNED	CHECKED
SM	SM	SM

DRAWING SCALE	SHEET SIZE
As indicated	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
SD18-0904	DA 6004	B



51

1 **SHADOW DIAGRAM-21JUNE-01PM**

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SHADOW DIAGRAM LEGEND

- SHADOWS CAST BY EXISTING NEIGHBOUR
- SHADOWS CAST BY EXISTING BUILDING
- ADDITIONAL SHADOWS CAST BY PROPOSED BUILDING

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NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

N

Rev.	Date	Description
B	17.11.2023	AMENDMENTS
A	23.06.2023	AMENDMENTS

Scale
m 0 2 4 6 8
1:200 at A3 1:100 at A1

REFERENCES

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

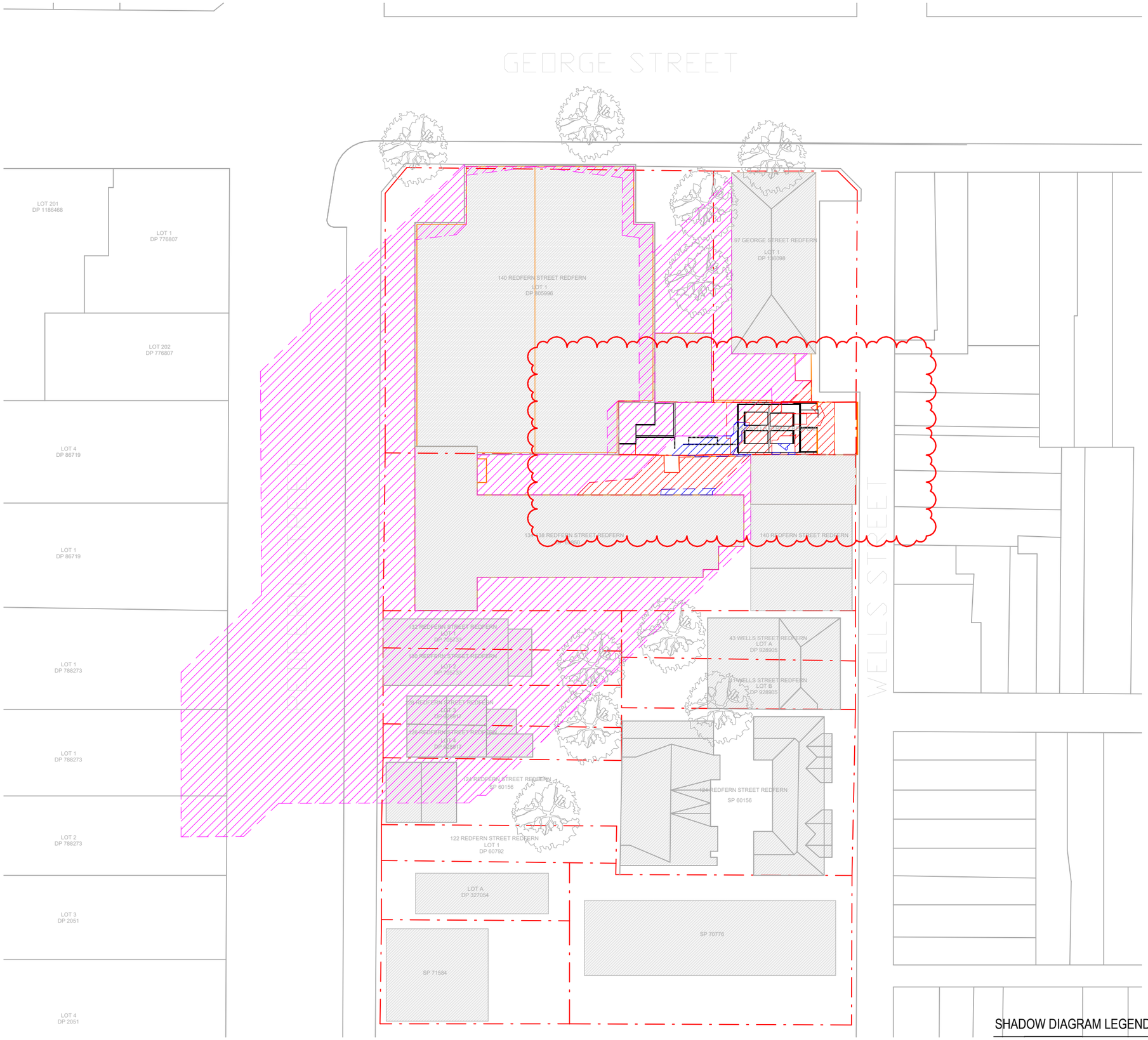
CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
SHADOW DIAGRAM-21JUNE-01PM

DRAWN	DESIGNED	CHECKED
SM	SM	SM

DRAWING SCALE	SHEET SIZE
As indicated	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
SD18-0904	DA 6005	B



52

1 SHADOW DIAGRAM-21JUNE-02PM

DA documentation prepared by Superdraft (Rev A)
and Updated by SN Architects (Rev B & C & D)

SHADOW DIAGRAM LEGEND

- SHADOWS CAST BY EXISTING NEIGHBOUR
- SHADOWS CAST BY EXISTING BUILDING
- ADDITIONAL SHADOWS CAST BY PROPOSED BUILDING

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PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
SHADOW DIAGRAM-21JUNE-02PM

DRAWN	DESIGNED	CHECKED
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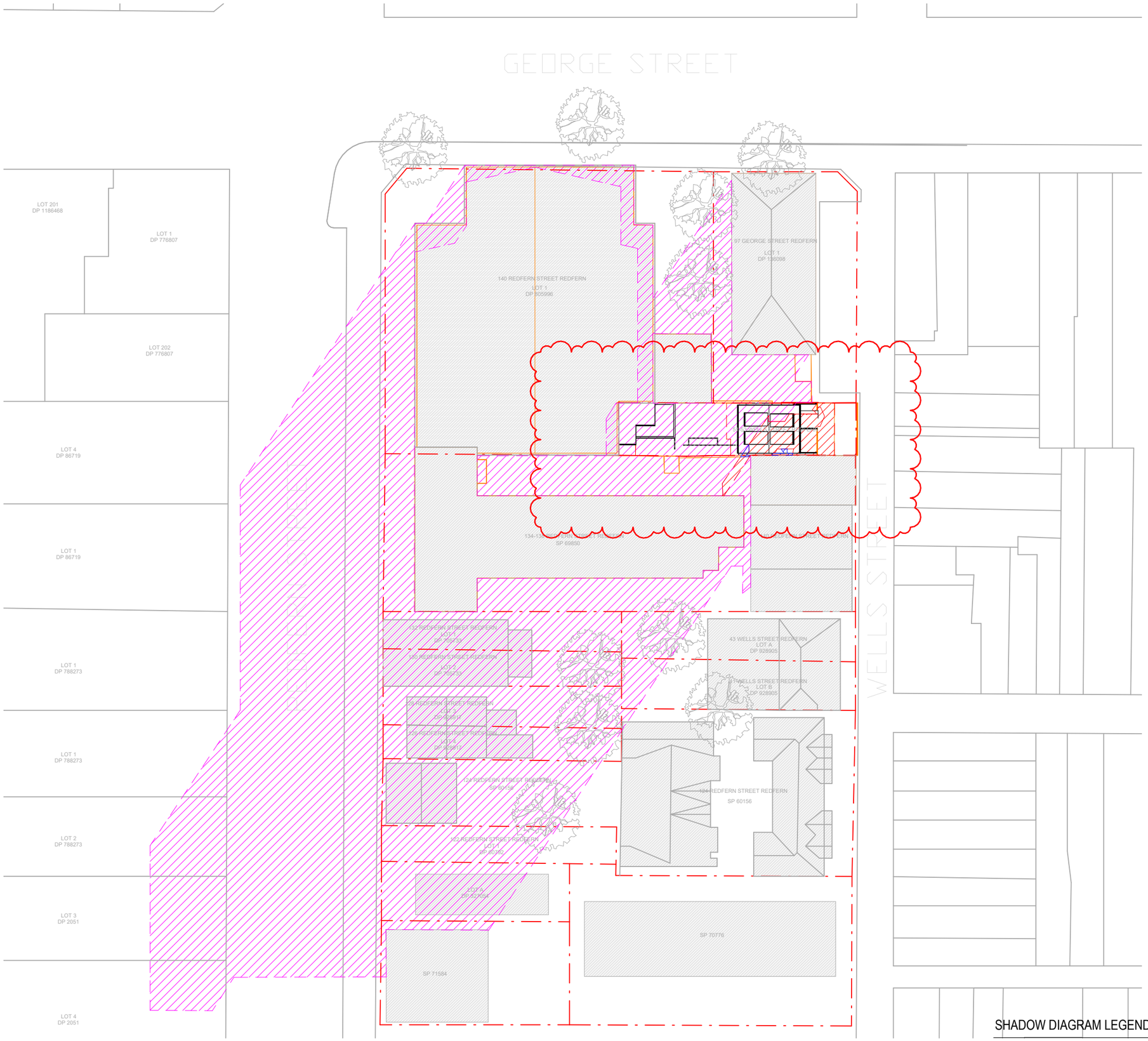
DRAWING SCALE	SHEET SIZE
As indicated	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
SD18-0904	DA 6006	B



53

1 **SHADOW DIAGRAM-21JUNE-03PM**

DA documentation prepared by Superdraft (Rev A) and Updated by SN Architects (Rev B & C & D)

SHADOW DIAGRAM LEGEND

- SHADOWS CAST BY EXISTING NEIGHBOUR
- SHADOWS CAST BY EXISTING BUILDING
- ADDITIONAL SHADOWS CAST BY PROPOSED BUILDING

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NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

Rev.	Date	Description
B	17.11.2023	AMENDMENTS
A	23.06.2023	AMENDMENTS

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REFERENCES

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alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
SHADOW DIAGRAM-21JUNE-03PM

DRAWN	DESIGNED	CHECKED
SM	SM	SM

DRAWING SCALE	SHEET SIZE
As indicated	A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
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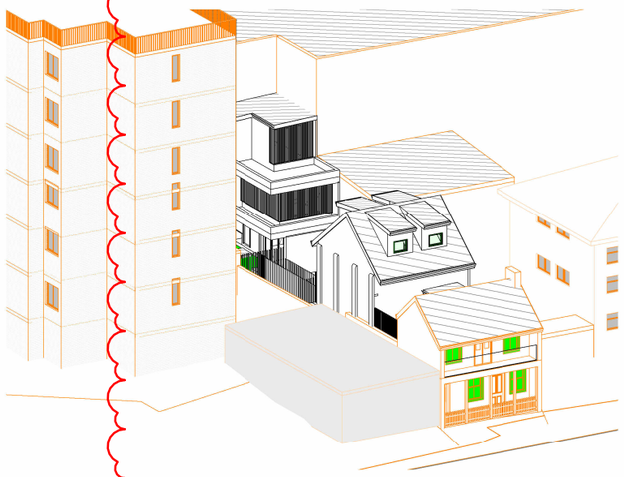

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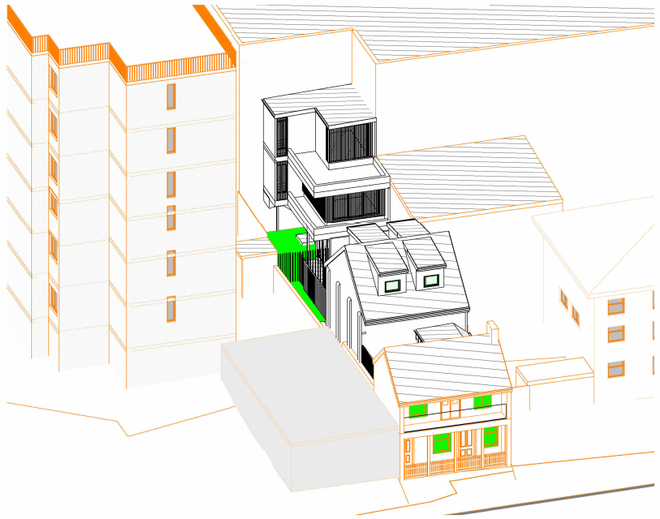

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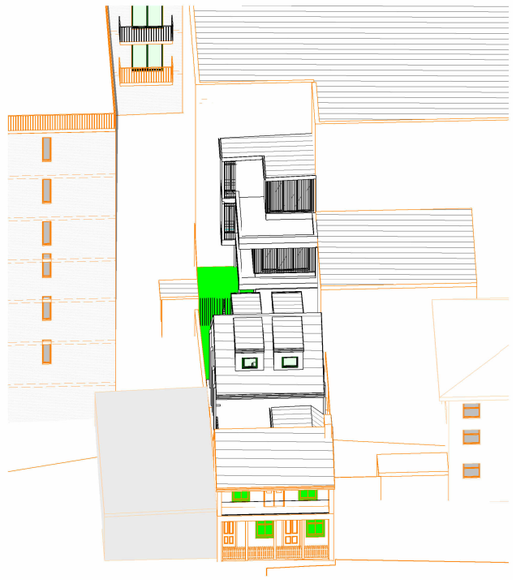

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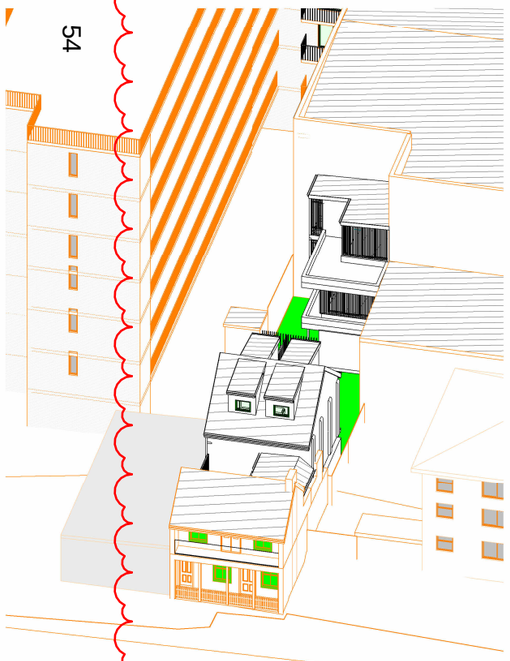

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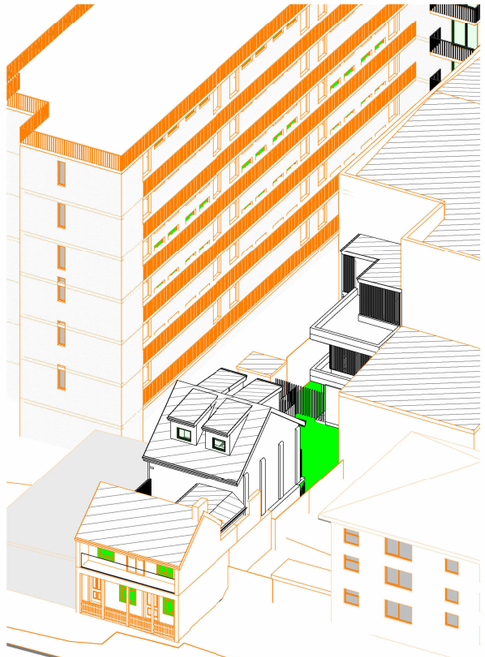

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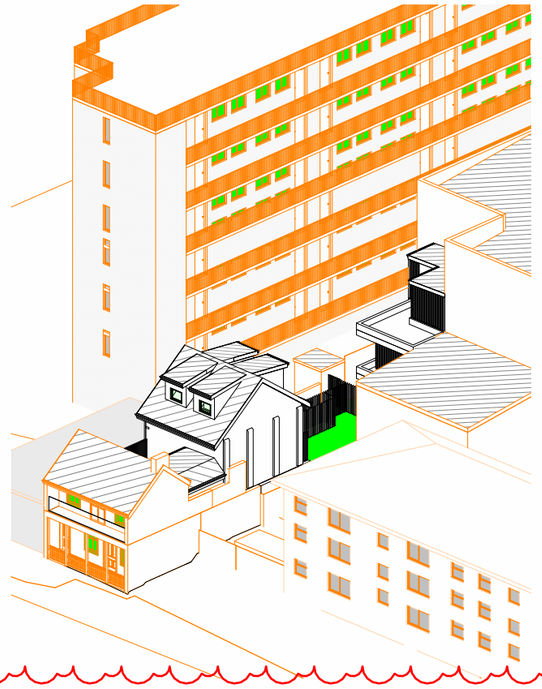

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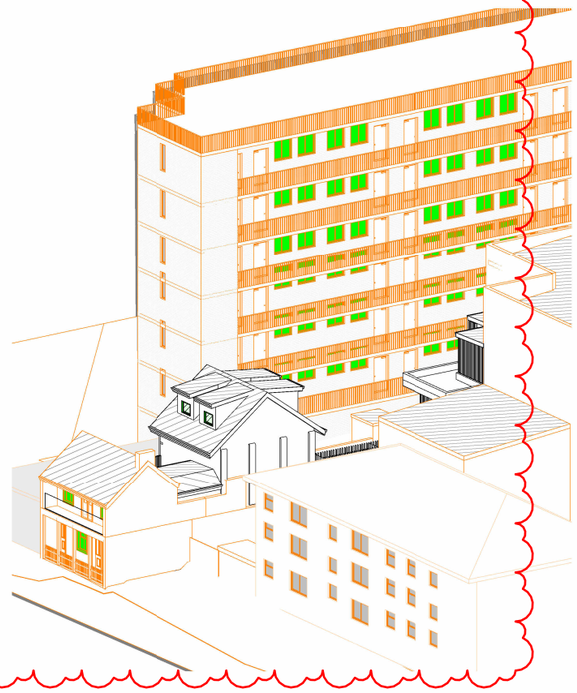

7 3pm 21st of June - View from sun

DA documentation prepared by Superdraft (Rev A)
and Updated by SN Architects (Rev B & C & D)

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NOMINATED ARCHITECT: SOROOSH MOSHKSAR 11278

Rev.	Date	Description
D	17.11.2023	AMENDMENTS
C	24.08.2023	AMENDMENTS
B	23.06.2023	AMENDMENTS
A	12.07.2022	DA SUBMISSION

NOT TO SCALE

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PROJECT STAGE
DA

PROJECT DETAILS
alteration and addition + secondary dwelling

51-53 Wells Street Redfern NSW 2016

CLIENT DETAILS
Tom Tung Cat

DRAWING TITLE
VIEW FROM SUN

DRAWN	DESIGNED	CHECKED
SM	SM	SM

DRAWING SCALE SHEET SIZE
A3

PROJECT NUMBER	DRAWING NUMBER	REVISION
SD18-0904	DA 7042	D

Attachment C

Planning Report to the 1 November 2023 Local Planning Panel Meeting

Item 4.

Development Application: 51-53 Wells Street, Redfern - D/2022/792

File No.: D/2022/792

Summary

Date of Submission:	5 August 2022, and as amended in June and September 2023
Applicant:	Mr Tung Cat
Architect/Designer:	Superdraft
Owner:	Mr Tung Cat
Planning Consultant:	Planning Direction Pty Ltd
Heritage Consultant:	Weir Phillips Heritage and Planning
Cost of Works:	$511,700.00
Zoning:	The site is located within the E1 Local Centre zone under the Sydney Local Environmental Plan (SLEP) 2012. The proposal is defined as a single dwelling and a secondary dwelling, both of which are permissible with consent.
Proposal Summary:	Consent is sought to carry out alterations and additions to an existing dwelling and construct a secondary dwelling at the rear of the site. The application has been referred to the Local Planning Panel for determination due to over 25 submissions being received. **Notification** The application was notified for 14 days between 12 August 2022 and 27 August 2022. A total of 26 submissions were received. The issues raised include tree removal, amenity impacts, solar access, impacts on streetscape and character, traffic, waste and construction impacts. These concerns are addressed within the report.

Issues

The application has been amended to address issues identified by Council Officers during assessment. The main issues relate to:

- construction methodology and documentation to protect trees to be retained;
- built form of link between dwelling and rear addition;
- ongoing waste management; and
- overshadowing impact to the adjoining property to the east.

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

Development Controls:

(i) Sydney Local Environmental Plan 2012

(ii) Sydney Development Control Plan 2012

(iii) SEPP (Resilience and Hazards) 2021

(iv) SEPP (Building Sustainability Index: BASIX) 2004

(v) City of Sydney Development Contribution Plan 2015

(vi) City of Sydney Affordable Housing Program

Attachments:

A. Recommended Conditions of Consent

B. Selected Drawings

Recommendation

It is resolved that consent be granted to Development Application Number D/2022/792 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

(A) The development is consistent with the objectives of the E1 Local Centre zone contained in Sydney Local Environmental Plan 2012.

(B) The development responds appropriately to the scale of surrounding buildings, and is compatible with the character of the Prince Alfred Park South locality and the Redfern Estate heritage conservation area.

(C) The development exhibits design excellence under Clause 6.21C of Sydney Local Environmental Plan 2012.

(D) The development will not unreasonably compromise the amenity of neighbouring properties.

(E) The development is generally consistent with the objectives of the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 73710, known as 51-53 Wells Street, Redfern. It is rectangular in shape with area of approximately 205.6sqm and it has a street frontage of 6.7m to Wells Street. The site is located close to the intersection of Wells Street and George Street. Levels on the site fall by approximately 1.8m from the rear towards the front of the site.

2. The site contains a two-storey dwelling and single storey outbuilding at the rear. Several alterations and additions have been undertaken on the dwelling including a rear first floor addition and deck. There are several existing trees within the rear yard.

3. The surrounding area is characterised by a mixture of land uses, primarily being residential, commercial and mixed use. Adjoining the site to the east is a six storey residential flat building containing commercial tenancies on the ground floor level facing Redfern Street. To the west is three storey residential flat building as well as a 4 storey commercial building that immediately abuts the south-western corner. Adjacent to the site at the north is a row of modern single storey terraces.

4. The site is located within the Redfern Estate heritage conservation area C56. The site is identified as a contributing building.

5. The site is located within the Prince Alfred Park South locality and is not identified as being subject to flooding.

6. A site visit was carried out on 11 October 2022. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Wells Street, looking south



Figure 3: East elevation viewed from Wells Street, showing existing rear addition



Figure 4: West elevation viewed from Wells Street



Figure 5: Rear yard and existing outbuilding. The blank walls of the adjoining commercial building immediately abut the rear southern boundary and partly along the site's western boundary.

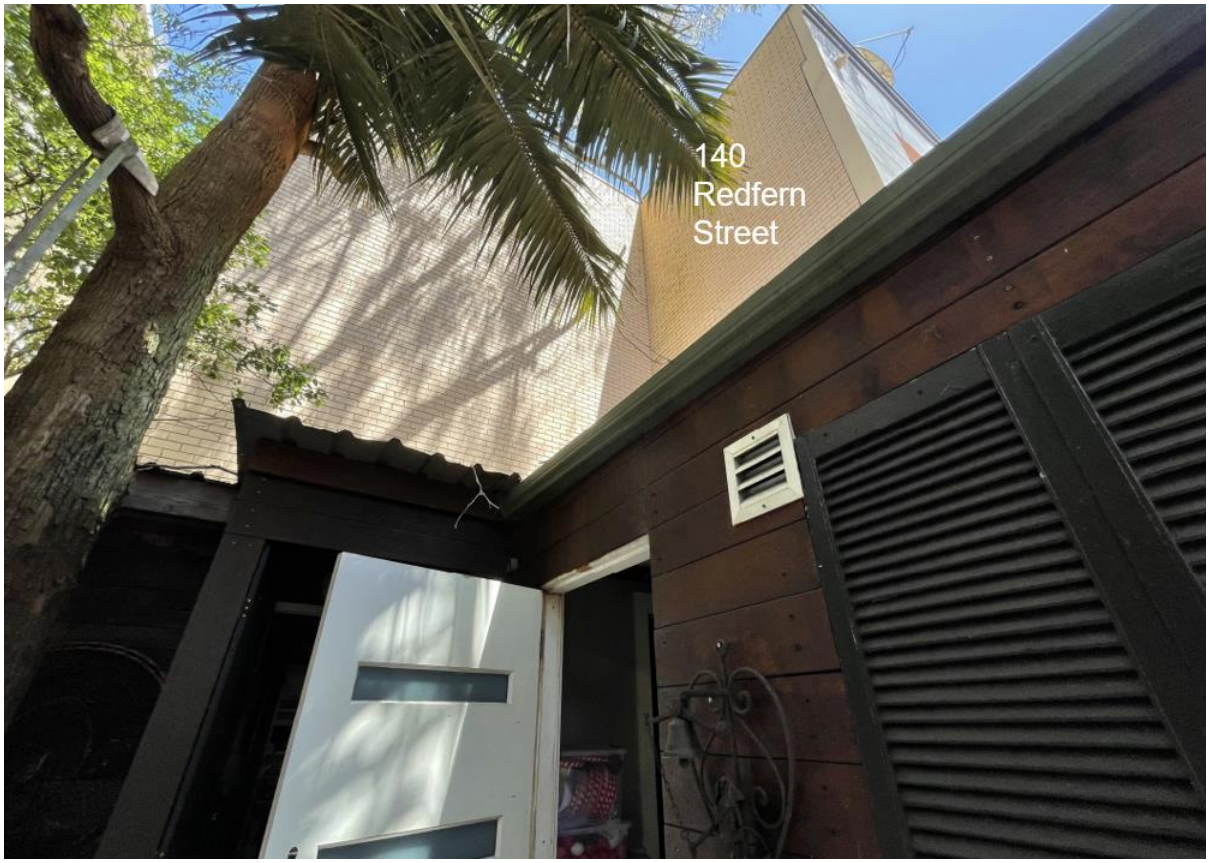


Figure 6: Scale of adjoining building (140 Redfern Street) viewed from rear yard



Figure 7: 134-138 Redfern Street viewed from rear yard of subject site, looking east



Figure 8: 134-138 Redfern Street balconies and living room windows viewed from Wells Street

History Relevant to the Development Application

Development Applications

7. While there are no recent development consents for the site, the following applications are relevant to the subject application.

- **44/84/2185** – Development consent was granted on 16 December 1985 for construction of a single storey outbuilding at the rear.

- **D/2020/1077** – Development application was lodged on 16 October 2020 for alterations and additions to the existing dwelling and construction of a four-storey boarding house at the rear. The application was subsequently withdrawn on 12 February 2021 due to issues relating to impacts to residential amenity, accessibility, heritage significance, tree management and insufficient documentation.

- **PDA/2021/139** – Pre-lodgement advice was provided by Council Officers on 9 June 2021 for an amended development scheme that deleted the boarding house and proposed a secondary dwelling at the rear. The advice outlined support for a secondary dwelling. Key issues raised in the advice included bulk and scale of the proposed additions to the primary dwelling, provision of privacy treatment to the secondary dwelling and materiality of new additions.

The current application has been amended to reflect the advice given by Council Officers at Pre-DA stage.

Compliance Action

8. The site has previously been subject to compliance action which is now closed.

9. A stop use order was issued to the property owner on 3 February 2021 concerning unauthorised use of an outbuilding as tourist and visitor accommodation.

10. Compliance Officers determined construction of the outbuilding for use as a rumpus room was approved by DA no. 44/84/2185 on 16 December 1985. However, the construction of a kitchen within the outbuilding and use as tourist and visitor accommodation was unauthorised. Subsequently, a demolition order was issued to the property owner on 16 March 2021 concerning unauthorised building works.

11. The property owner fully complied with the terms of the order and a completion letter was issued by Council Officers on 27 May 2021.

Amendments

12. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 23 May 2023. The following was requested:

    (a) The design of the proposed western roof link is to be amended so it is set below the existing principal roof form and gutter. This would require the bathroom/hallway roof to be lowered to the minimum height allowable under the National Construction Code (NCC).

    (b) The proposed dormer windows and rear roof extension location on the first floor addition are to be swapped so the two dormer windows are oriented to the north (facing Wells Street) and the rear roof extension is oriented to the south (facing to the rear of the site).

    (c) The glazed roof over the first-floor terrace is to be deleted.

    (d) The level one privacy screens is to be amended to be fixed along the wall line and cover the entire glazing of the north and east windows.

    (e) The level two balcony privacy screens is to be amended to be fixed along the balcony line not the planter line.

    (f) Root mapping investigations it to be undertaken. The Arboricultural Impact Assessment (AIA) must be updated to include the results of investigations and any necessary modifications to the proposed development.

    (g) The AIA is to be updated to specify if any pruning will be required to accommodate the alterations and additions to the primary dwelling. If pruning is required, the AIA should include a Pruning Specification.

    (h) Further information to demonstrate the proposed secondary dwelling will not adversely impact the Eucalptus Botryoides Tree. Except for the localised siting of piers, no excavation into the soil profile is supported (beyond the existing slab).

(i) Amended plans are required that show the proposed finished floor level of the secondary dwelling and extent of excavation required for the proposed slab and footings within the Tree Protection Zone.

(j) The Waste Management Plan (WMP) provided does not provide sufficient detail for assessment. An updated WMP is requested that outlines the specific details of ongoing management of the storage and collection of waste.

(k) A supporting letter is to be provided by a structural engineer giving preliminary indication sketches of the proposed structural interventions required in the original terrace to support the extent of works proposed, including compliance with the NCC and AS1170 for lateral bracing and earthquake strengthening.

(l) A set of shadow diagrams at hourly intervals is requested to clearly demonstrate the overshadowing impact of the proposed development.

(m) A comprehensive materials, colours and finishes schedule keyed to each building elevation is requested.

13. The applicant responded to the request on 24 June 2023, and submitted the following**:**

(a) updated architectural drawings**;**

(b) updated AIA including the results of root mapping investigations**;**

(c) updated WMP**;**

(d) report and preliminary indications and sketches prepared by a structural engineer**;**

(e) updated shadow analysis, including elevational views, to document the proposed impact to the adjoining sites; and

(f) schedule of materials, colours and finishes.

14. A further request for amendments was sent to the applicant on 14 August 2023 requesting the following additional information and amendments:

(a) **T**he root investigation found a large root from the Jacaranda Tree between the proposed stairs and fence line. However, the plans appear to still require excavation in this area. Updated architectural plans are requested to demonstrate that all existing levels (RLs) will be maintained in this area as identified in the root investigation report.

(b) **F**urther details of the proposed finished materials between the back of the building extension (primary dwelling) and Tree 3.

(c) **A**dditional sections demonstrating how the new concrete slab for the secondary dwelling will be installed to ensure it is above the roots identified by the tree root investigation.

(d) **T**he architectural drawings must be updated to show all finished floor levels (RLs) on the ground floor plan.

(e) **S**pecification of the proposed finished surface materials surrounding Tree 8.

(f) **A**dditional shadow analysis demonstrating the extent of impact to the windows of adjoining dwellings.

(g) **T**he bin storage area for the primary dwelling is located in the walkway to the secondary dwelling and leaves less than a meter width for access. The location of the bins must be moved out of the path of travel by shifting the privacy screen to the west, or an alcove made in the privacy screening to store the bins.

(h) **S**tormwater drainage plan that shows the proposed drainage arrangements on site including location of gutters etc.

15. The applicant responded to the request on 18 September 2023 and submitted the requested amendments and additional documentation.

Proposed Development

16. The application seeks consent for the following:

- demolition of rear outbuilding;
- alterations and additions to the existing dwelling, including a two-storey pavilion addition, reinstatement of original front balcony, and internal alterations; and
- construction of three storey secondary dwelling at the rear.

17. Selected drawings of the proposed development are provided below.

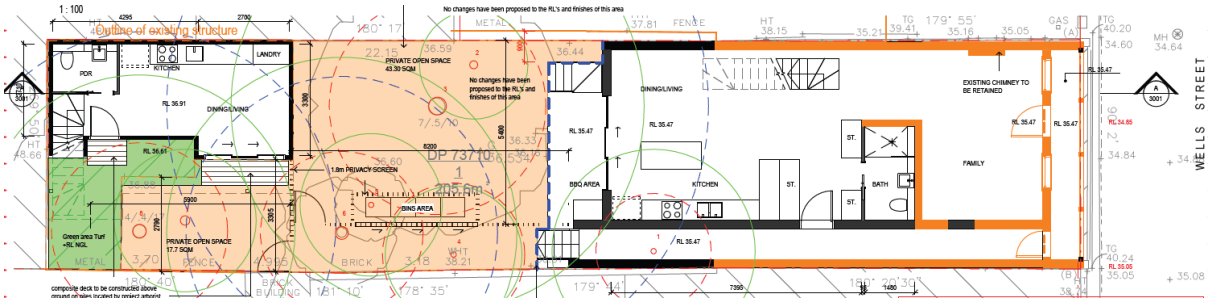


Figure 9: Proposed ground floor plan

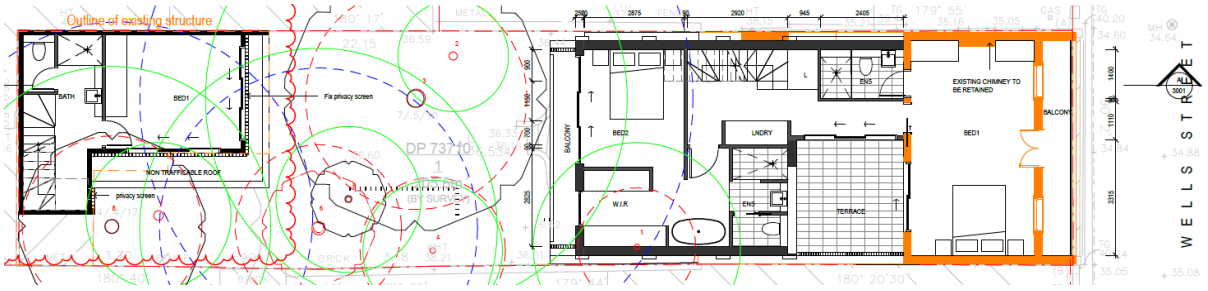


Figure 10: Proposed first floor plan

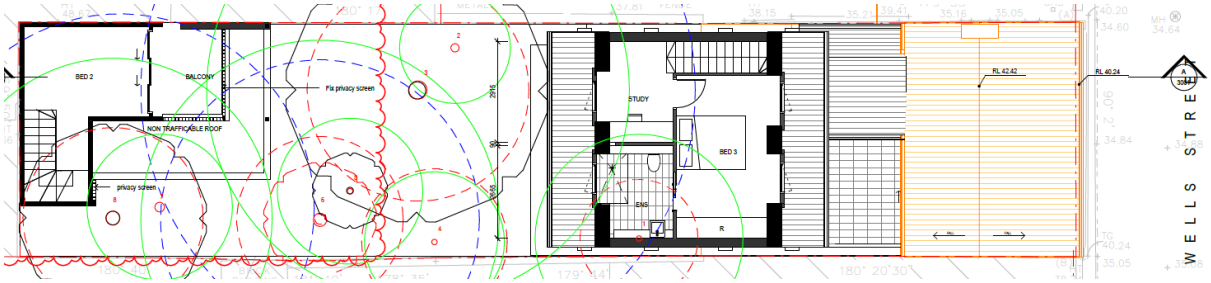


Figure 11: Proposed second floor plan



Figure 12: Proposed front (south) elevation, primary dwelling

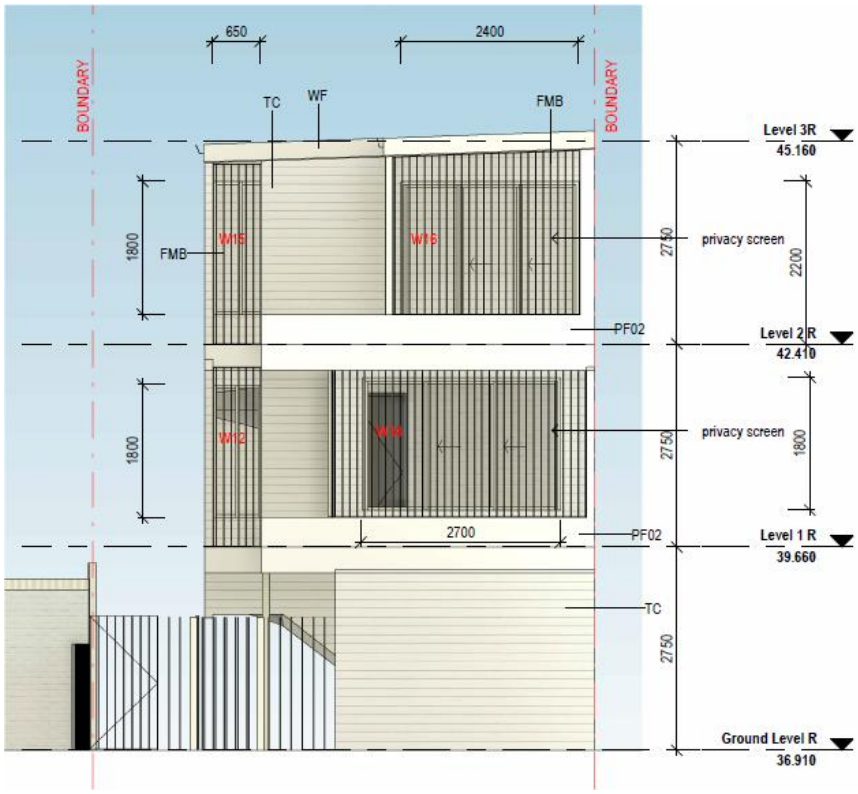


Figure 13: Proposed south elevation, secondary dwelling

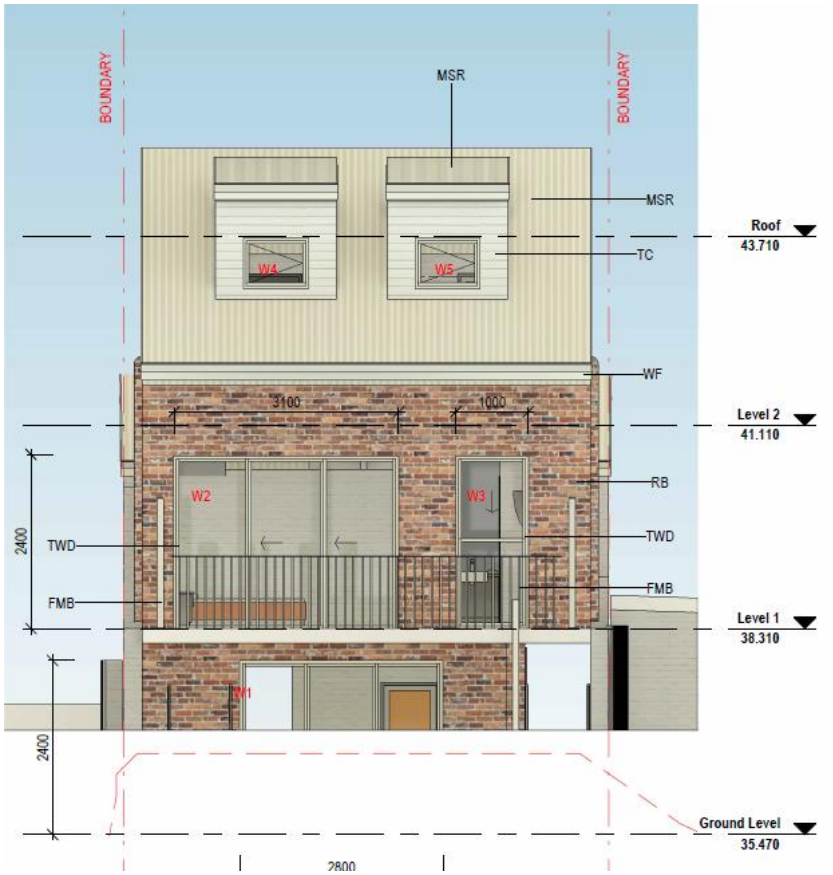


Figure 14: Proposed north elevation, primary dwelling

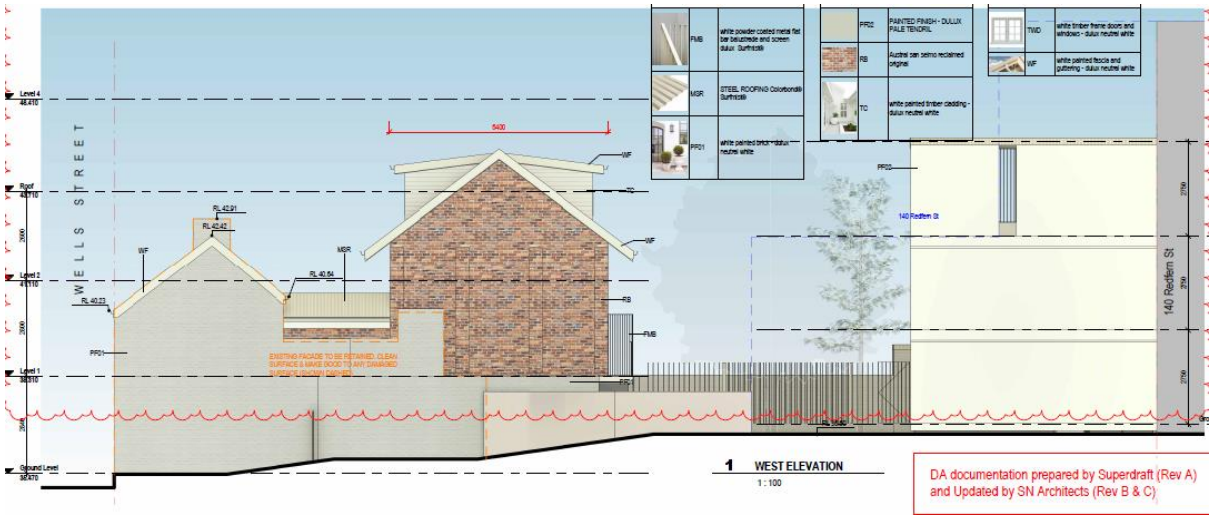


Figure 15: Proposed west elevation

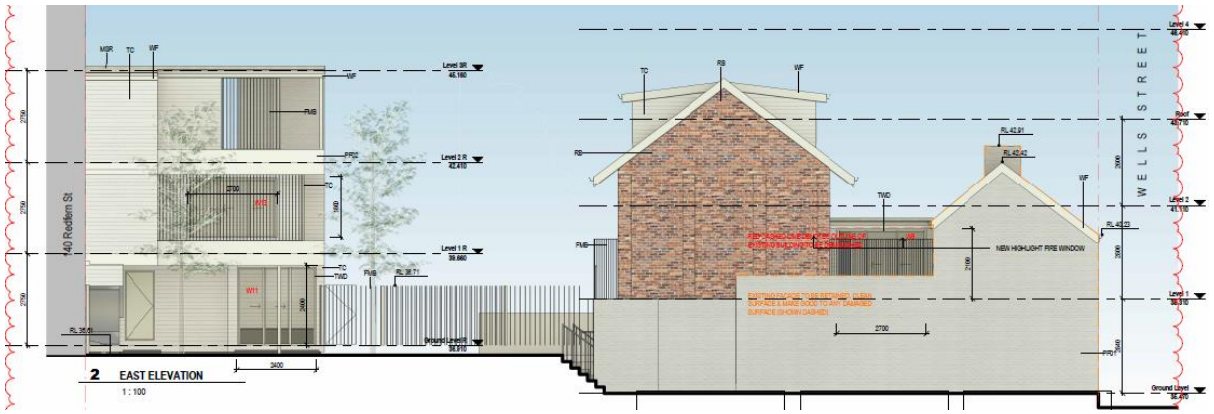


Figure 16: Proposed east elevation

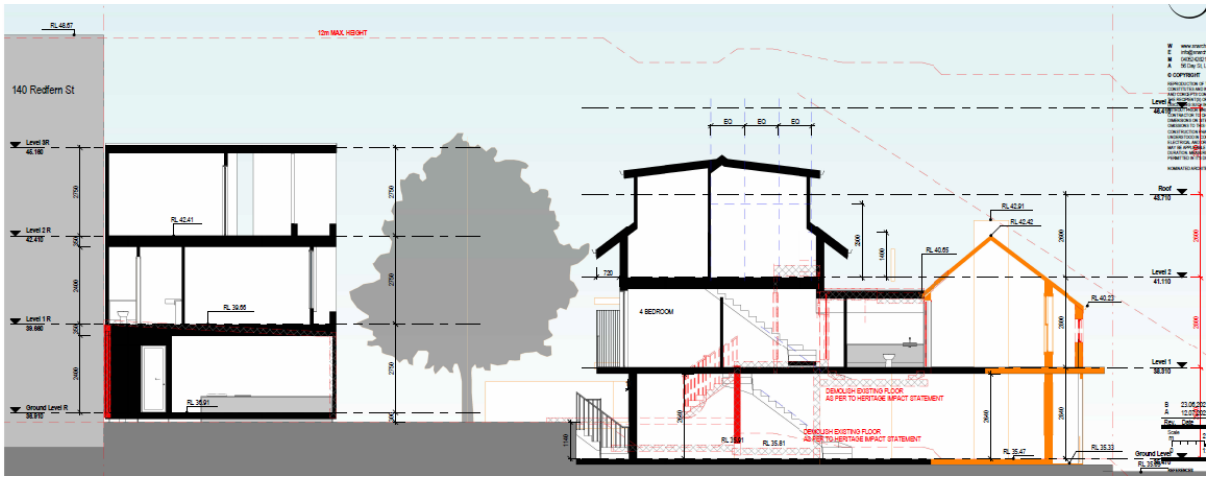


Figure 17: Proposed long section

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. The site has not been identified as contaminated and no remediation works are required.

State Environmental Planning Policy (Housing) 2021

Part 1 Secondary Dwellings

21. Chapter 3 Part 1 of the Housing SEPP is not excluded by Section 1.9 of the Sydney LEP 2012. However, Division 1 Part 50 states the SEPP only applies to land in a residential zone.

22. The subject site is zoned as E1 Local Centre and is not included in the definition of 'residential zone' by Part 49 of the SEPP.

23. Considering the above, the provisions Housing SEPP does not apply in this instance.

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

24. A BASIX Certificate has been submitted with the development application.

25. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated into the proposal. A condition is recommended ensuring the measures detailed in the BASIX certificate are implemented.

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	The site is located in the E1 Local Centre zone. The proposed development is defined as a dwelling and a secondary dwelling, both of which are permissible with consent in the zone.

Provision	Compliance	Comment
		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 12m is permitted. A height of 8.55m is proposed. The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio (FSR)	Yes	A maximum FSR of 1.5:1 or 308.4sqm is permitted. A compliant FSR of 1.15:1 or 237.27sqm is proposed.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.4 Controls relating to miscellaneous permissible uses	Yes	The proposed secondary dwelling has a total gross floor area of 56.99sqm, which is complaint with the maximum 60sqm stipulated by subclause (9)(a).
5.10 Heritage conservation	Yes	The site is located within the Redfern Estate heritage conservation area (C56). The proposed development will not have detrimental impact on the heritage significance of the heritage conservation area. See further details in the 'Discussion' section below.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	The proposal, as amended, responds appropriately to the context of neighbouring developments, the heritage conservation area, and the

Provision	Compliance	Comment
		locality, as discussed elsewhere in this report. It 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. The development achieves design excellence.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.4 Dwelling houses, attached dwellings and semi-detached dwellings	Yes	A maximum of two car parking spaces are permitted. No parking is proposed as part of the subject application.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	N/A	The proposed development is not subject to an affordable housing contribution as discussed in the 'Financial Contributions' section below.
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 Prince Alfred Park South locality. The proposed development is in keeping with the unique character and the design principles of the locality in that the development responds to and complements the streetscape character of Wells Street.

Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	The subject application seeks consent to remove two existing trees, a Vitus vinifera (Grape Vine) and Nerium oleander (Oleander) both of which are identified as low retention value trees. All other existing trees are proposed to be retained. An arborists report submitted with the subject application has been reviewed by Council's Tree Management Unit. See further details in the 'Discussion' section below.
3.6 Ecologically Sustainable Development	Yes	The proposal satisfies BASIX and environmental requirements.
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	No subdivision is proposed as part of this application. A condition is recommended to prohibit future subdivision of the secondary dwelling.
3.9 Heritage	Yes	As discussed under Clause 5.10 of Sydney LEP 2012 above, the amended proposal is acceptable from a heritage perspective.
3.14 Waste	Yes	A waste management plan submitted with the application has been reviewed by Council's Waste Management Unit. Conditions are recommended to ensure the proposal complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.

Section 4 – Development Types

4.1 Single Dwellings, Terraces and Dual Occupancies

Provision	Compliance	Comment
4.1.1 Building height	Yes	The site is permitted a maximum building height of 3 storeys.

Provision	Compliance	Comment
		The proposal seeks to retain the existing 2 storey dwelling, and the new rear addition will be 3 storeys in height. The secondary dwelling is proposed to be 3 storeys in height.
4.1.2 Building setbacks	Yes	No changes are proposed to the existing side setbacks of the dwelling. The proposed rear setback relates to the existing setback patterns along the street and respects the predominant rear building line. A secondary dwelling is proposed within the rear setback. The location of the secondary dwelling relates to the existing setbacks of the adjoining sites at the south and west.
4.1.3 Residential amenity As demonstrated below, the proposed development will have acceptable residential amenity and will not have unreasonable impacts on the residential amenity of neighbouring properties.		
4.1.3.1 Solar access	Yes	See details in the 'Discussion' section below.
4.1.3.3 Landscaping	Yes	At the time of writing this report, there are no solar panels located on the roof of the adjoining property to the south.
4.1.3.4 Deep soil planting	Yes	A sufficiently sized consolidated deep soil zone is to be provided.
4.1.3.5 Private open space	Yes	The proposal provides a private open space of 43.3qm, with a minimum dimension of 3m, on the ground floor to the existing dwelling (primary dwelling). The private open space is directly accessible from, and capable of serving as an extension to, the terrace's indoor living area. An additional private open space is also provided to the secondary dwelling.
4.1.3.6 Visual privacy	Yes	The windows of the secondary dwelling are to be fully obscured by privacy screening to achieve acceptable visual privacy protection. There are no additional windows proposed along the side elevations of

Provision	Compliance	Comment
		the primary dwelling. A door opening is proposed to provide access to the balcony, however privacy screening is located along the edge of the balcony line to mitigate overlooking.
4.1.4 Alterations and additions		
4.1.4.1 General	Yes	The proposed development does not remove significant building elements and respects the form, scale and setbacks of the dwelling.
4.1.4.4 Pavilion additions	Yes	The proposed pavilion addition is of a form and scale that respects the existing dwelling and will not detract from the character and amenity of the surrounding area. The element connecting the pavilion to the original dwelling is simple and subservient in design.
4.1.5 Roof alterations and additions		
4.1.5.4 Traditional front dormers	Yes	The application proposes a dormer to the front and rear roof plane of the new pavilion addition. A condition is recommended requiring the dormer to comply with the design criteria of this control to ensure consistency with the streetscape.
4.1.6 Secondary and laneway dwellings	Acceptable	The proposal includes a secondary dwelling to the rear of the site. The proposed built form of the secondary dwelling is considered acceptable in the context of the site. See 'Discussion' section below for further detail.
4.1.8 Balconies, verandahs and decks	Yes	The application proposes to reinstate the original front balcony of the primary dwelling and retain the existing first floor level terrace. A balcony is proposed on the third level of the secondary dwelling oriented to the front (north) of the site. Privacy screening is proposed along the openings of the balcony.

Discussion

Built Form

29. The Sydney LEP 2012 stipulates a maximum building height of 12m and the Sydney DCP 2012 outlines a height control of 3-storeys for the subject site.

30. The proposed development includes a 3-storey rear addition adjoining the existing dwelling and 3-storey secondary dwelling located at the rear of the site, the maximum height of buildings proposed is 8.55m.

31. Surrounding the site to the east is a 6-storey residential flat building, to the south is a 3-storey building, and to the west is a 3-storey building.

Primary Dwelling

32. A pavilion addition is proposed in accordance with Section 4.1.4.4 of the Sydney DCP 2012. The proposed addition is considered acceptable for the following reasons:

    (a) The roof pitch of the addition is consistent with the existing dwelling and is suitable in the context of the existing built form of the dwelling.

    (b) The link between the existing dwelling and new addition is designed to allow the profile and form of the original dwelling to be discernible.

    (c) The scale of the proposed addition is suitable in the context of the existing built form of the dwelling and surrounding area, noting the adjoining buildings are at least 3-storeys in height.

    (d) Alterations to the external appearance of the existing dwelling are minimised as the new building works are primarily contained within the new addition.

    (e) The proposed materials and finishes are complimentary to the existing dwelling and respects the contribution of the building to the heritage conservation area.

Secondary Dwelling

33. Section 4.1.6 of the Sydney DCP 2012 outlines the objectives and controls for secondary and laneway dwellings. The subject site does not have a frontage to a laneway.

34. The proposal has been considered against the objectives of Section 4.1.6. In this instance, the secondary dwelling is considered acceptable in the context, for the following reasons:

    (a) The built form and massing of the secondary dwelling responds to the adjoining buildings at the south and west, which have a nil setback to the property boundary and reach a height of approximately 12m above natural ground level.

    (b) The scale of the dwelling is consistent with the existing neighbourhood character, particularly along Wells Street which has a predominant street frontage height of 2-3 storeys and variety of building heights up to 6-storeys.

    (c) A 3-storey built form at the rear of the site will not be visible above the ridge line of the principal dwelling when viewed from the primary street frontage.

(d) A reasonable level of amenity is maintained to the principal dwelling, including visual privacy, solar access and provision of private open space.

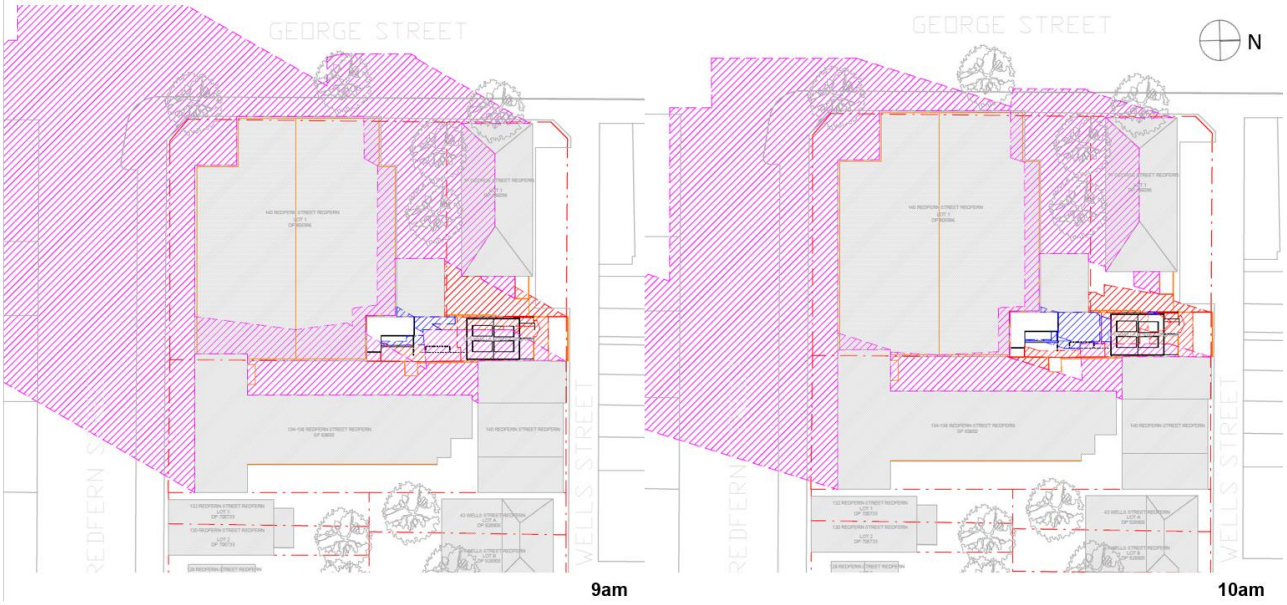
(e) The impacts to amenity of surrounding properties as a result of the proposal will be negligible (see 'Solar Access' below).

35. Considering the above points, in the context of the site and surrounding area the proposed built form is acceptable and will not negatively impact the desired future character of the locality or heritage conservation area.

Solar Access

36. Section 4.1.3 of Sydney DCP 2012 recommends that at least 8sqm of the principle private open space and 1sqm of primary living room windows of the subject and neighbouring dwellings should achieve a minimum of 2 hours of direct sunlight between 9.00am and 3.00pm at the winter solstice.

37. To enable an assessment of the amended proposal, the applicant has provided updated shadow diagrams, which are reproduced in



38. Figure **18:** Solar access mid-winter between 9am and 10am

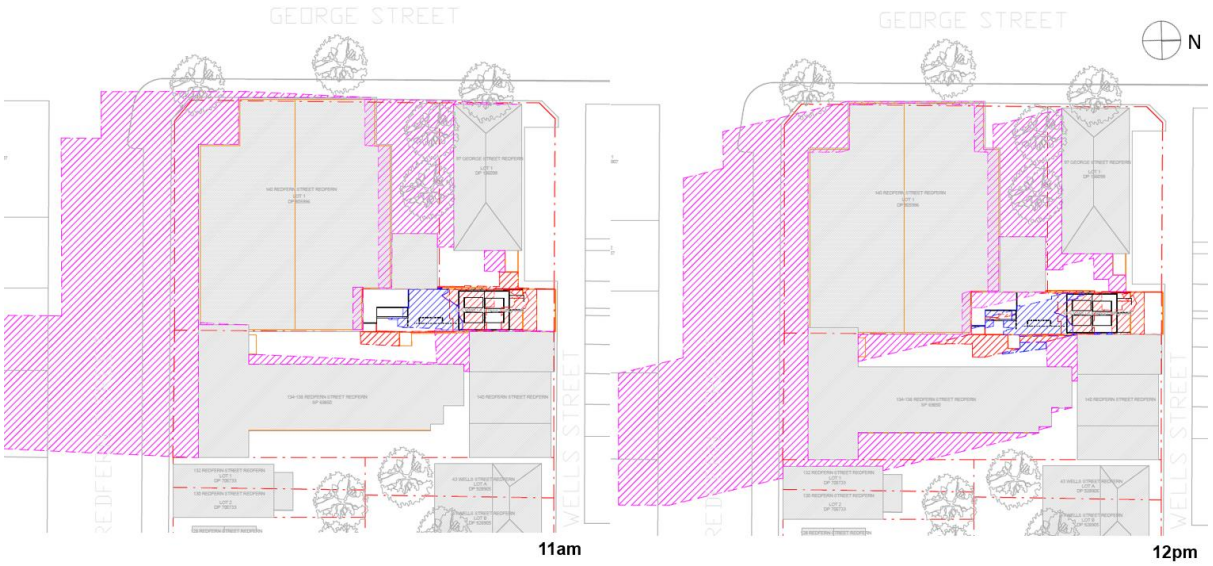


Figure 19: Solar access mid-winter between 11am and 12pm

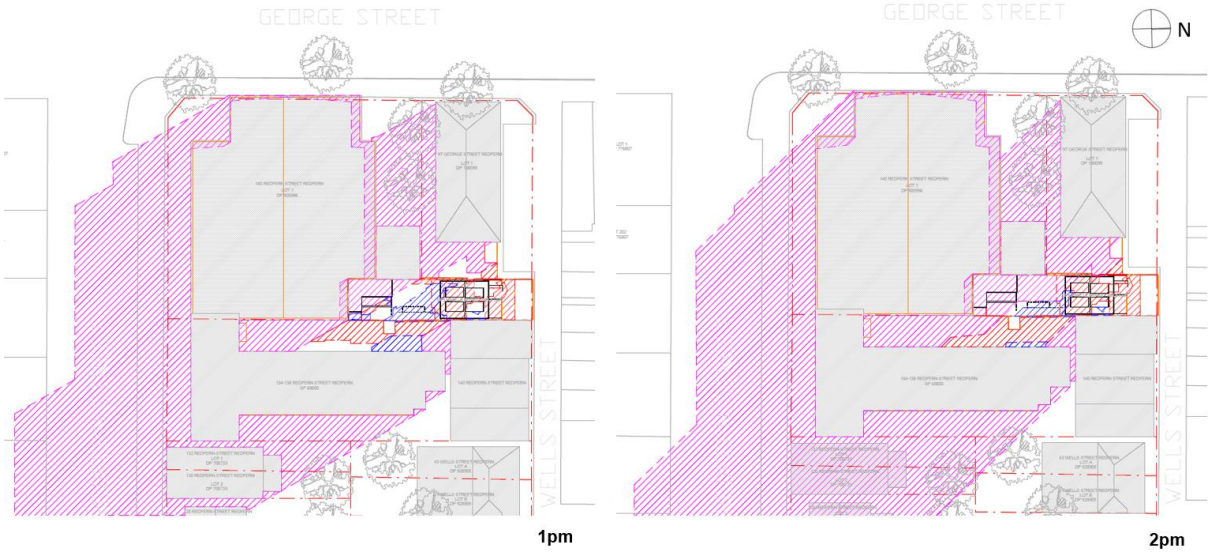


Figure 20: Solar access mid-winter between 1pm and 2pm

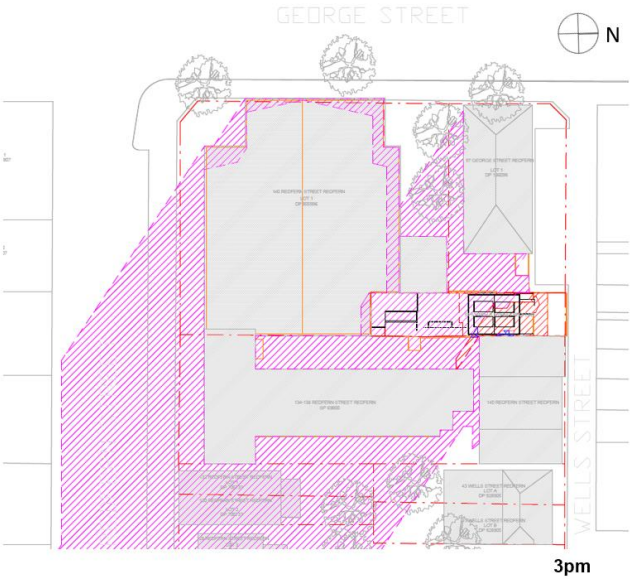


Figure 21: Solar access mid-winter at 3pm

39. 8 and Figure 229 below.

40. The diagrams identify the overshadowing by existing structures, including boundary fences, within the subject site and neighbouring properties in pink and red. Overshadowing caused by the proposed development is shown hatched in blue. The building to the east is 134-138 Redfern Street, to the south is 140 Redfern Street and to the west is 97 George Street.

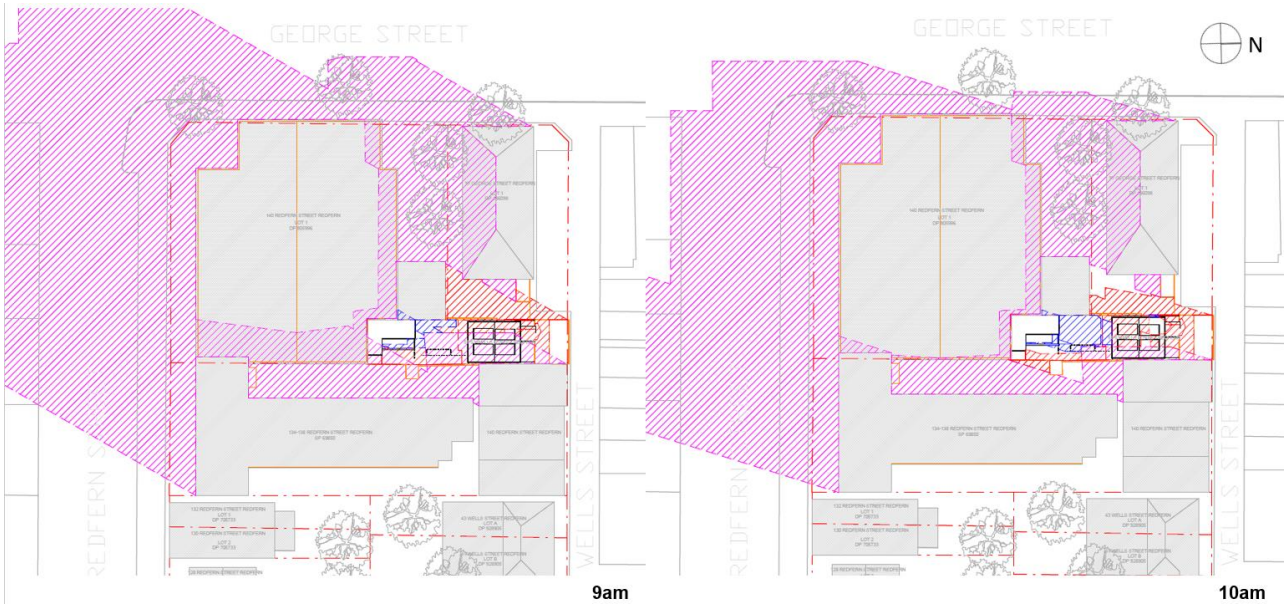


Figure 18: Solar access mid-winter between 9am and 10am

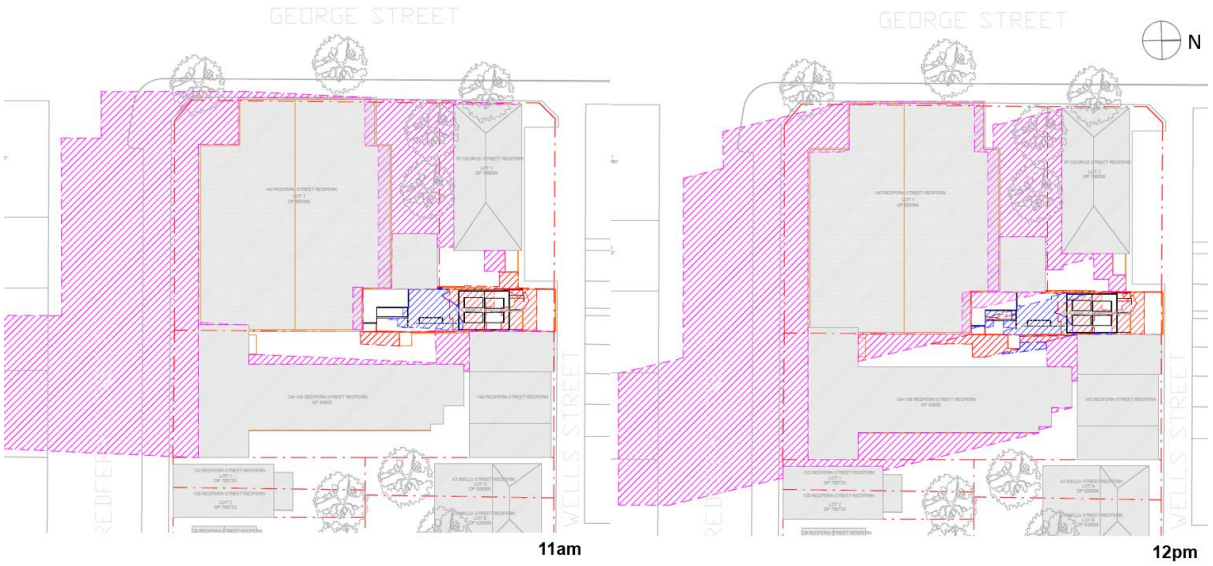


Figure 19: Solar access mid-winter between 11am and 12pm

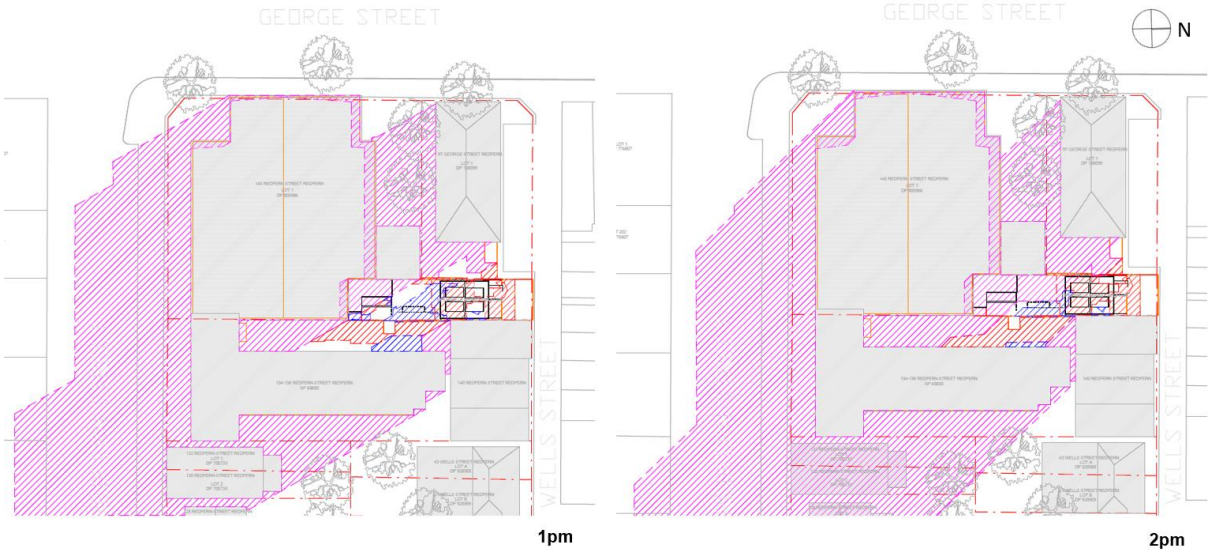


Figure 20: Solar access mid-winter between 1pm and 2pm

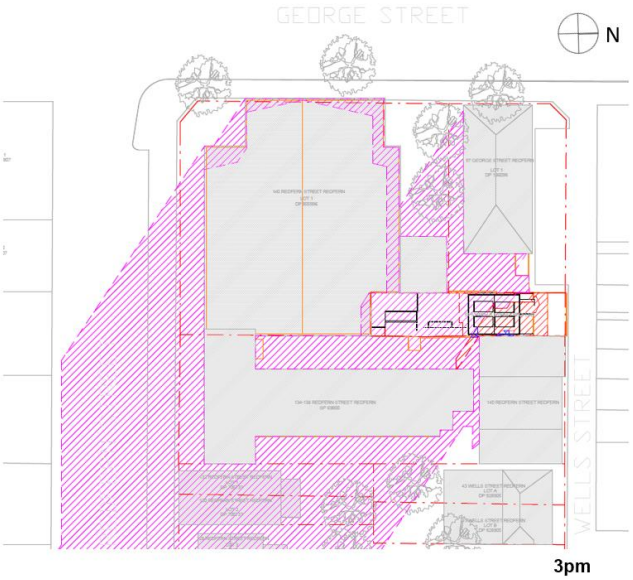


Figure 21: Solar access mid-winter at 3pm

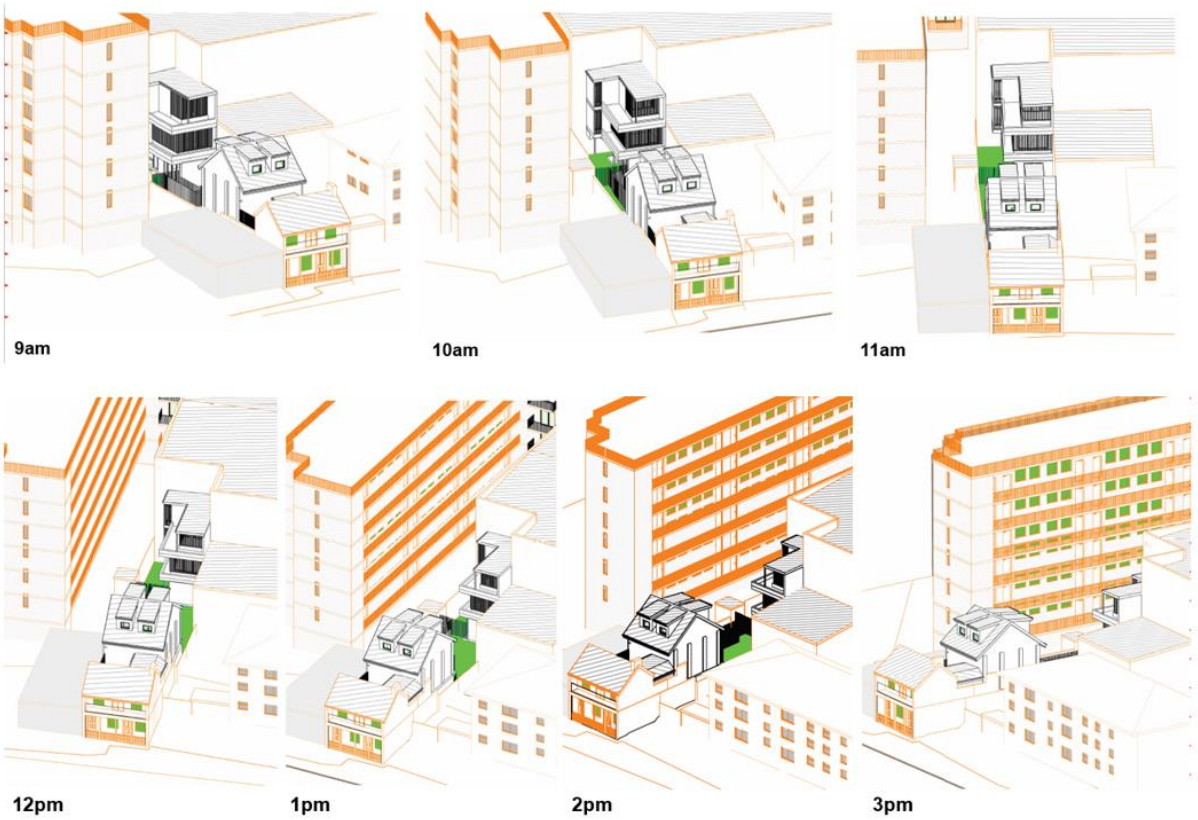


Figure 22: View from the sun mid-winter. Direct sunlight to windows and private open space is shown in green.

134-138 Redfern Street

41. The adjoining site to the east is a residential flat building, 134-138 Redfern Street. The building has individual balconies on the eastern elevation as the primary private open space adjoining living rooms. The western elevation has an external corridor to enable access to each apartment. There are some smaller windows facing west.

42. The shadow diagrams demonstrate:

    (a) There is no additional overshadowing as a result of the development between 9am and 1pm.

    (b) There is some additional overshadowing to the level one apartments between 2pm and 3pm, indicated by the view from the sun diagrams, where some windows disappear behind the proposed new building (see Figure 22 above). However, it is considered acceptable as the private open space (balconies) and living room windows are located along the eastern elevation, which is unaffected by the proposal.

43. Generally, the proposal maintains an acceptable level of solar access to neighbouring developments. Noting that located directly to the south-east of the proposal is the blank wall of 140 Redfern Street, which does not require solar access to be protected. Further, solar access to 97 George Street to the west of the site is unaffected by the proposal.

44. Notwithstanding, the minor additional overshadowing between 2pm and 3pm is acceptable considering that the additional overshadowing is caused by height that is complaint with the 12m 'height of buildings' development standard.

Tree Management

45. The subject application seeks consent to remove two existing trees located within the rear setback. The trees are identified as follows:

    (a) *Vitis vinifera* - grape vine; and

    (b) *Nerium oleander* - oleander.

46. Six other trees are identified within the rear yard and are sought to be retained by the proposed development.

47. An Arboricultural Impact Assessment (AIA) has been submitted with the application that outlines details of the trees to be retained, results of a root mapping investigation, construction methodologies and recommendations for management of the trees to be retained.

48. The AIA been reviewed by Council's Tree Management Unit, who identified removal of the two trees as acceptable due to their low retention classification. Further, it is identified that a sufficient level of canopy cover will be retained within the site despite removal of two trees.

49. Relevant conditions are recommended to ensure adequate tree protection measures are implemented during construction.

Consultation

Internal Referrals

50. The application was discussed with Council's Heritage and Urban Design Unit, Tree Management Unit and Cleansing and Waste Unit.

51. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

Advertising and Notification

52. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 14 days between 12 August 2022 and 27 August 2022. A total of 107 properties were notified and 26 submissions were received. Issues raised in the submissions are summarised below:

Land Use - Boarding House

(a) Proposed use as a boarding house will negatively impact the ambience of the area, result in additional security issues and is an overdevelopment of the site.

(b) No Plan of Management has been provided for the proposed boarding house.

Response: The proposal does not seek consent for a boarding house development. As such, no Plan of Management is required.

Geotechnical Report

(c) The submitted geotechnical report outlines potential hazards for the retaining wall of 134-138 Redfern Street.

(d) The report indicates the development is unsuitable for the site and will result in dangers to public safety and breaches to NSW legislation.

(e) The proposal does not meet planning requirements for excavation.

Response: No excavation is proposed beyond that necessary for new building footings and slabs. A condition is recommended requiring certification from a structural engineer prior to commencement of demolition, excavation or construction work to ensure the structural integrity of all retained building elements.

Tree Removal

(f) No arborist report has been provided.

Response: An Arboricultural Impact Assessment Report and Tree Root Investigation has been provided to Council for assessment.

(g) Removal of the trees will impact the views to nature from 134-138 Redfern Street.

Response: Two trees are proposed to be removed with the six trees to be retained. It is considered that the overall canopy cover to be maintained is acceptable.

(h) Animals may be harmed during removal of the trees.

Response: A condition is recommended in Attachment A to ensure protection of native wildlife.

(i) Removal of several established trees - vitis vinifera (common grape), nerium oleander (oleander), and eucalyptus nicholii (peppermint tree) is unnecessary and goes against Council guidelines.

Response: The proposal has been assessed by Council's Tree Management Unit and removal of the vitis vinifera and nerium oleander trees is considered acceptable due to their classification as low retention value. All other trees within the site are to be retained.

(j) The proposal will significantly reduce canopy cover on the site.

Response: Despite removal of two trees the subject site maintains compliance with the City's canopy cover target.

Acoustic and Visual Amenity Impacts

(k) The windows of the secondary dwelling look directly into the apartments at 134-138 Redfern Street.

Response: Privacy screening is proposed to be fixed along the window openings on the north and east elevations to mitigate potential overlooking.

(l) The balcony of the secondary dwelling will be directly across from 134-138 Redfern Street might create noise, nuisance and loss of privacy.

Response: The proposed balcony has privacy screening located along each side of the balcony line and is adjoining a bedroom as opposed to a living room/ kitchen, due to this it is considered that the noise and visual amenity impacts will be negligible.

Overshadowing

(m) The proposed development is a poor design in regard to overshadowing of the neighbouring property (134-138 Redfern Street) due to the lack of consideration in relation to the orientation of the site and the different in the height of the land.

(n) The addition to the primary dwelling will overshadow neighbouring properties and impact on adjoining apartments at 134-138 Redfern Street.

Response: A detailed solar analysis has been provided by the applicant and reviewed by Council Officers. In this instance, the shadow impact to private open space and living room windows is considered negligible. See 'Discussion' section above for further details.

Heritage and Streetscape

(o) The materials proposed are not in keeping with the heritage of the Redfern area. White timber cladding is too dissimilar to the building materials used in the area which is mostly brick.

Response: Section 3.9.6 of the DCP outlines new additions must not be designed as a copy or replica of other buildings in the area, but complement the siting, form, height, bulk, scale and materials of adjoining or nearby contributory buildings. Use of timber cladding is considered acceptable as it allows the new rear building to be differentiated from the existing dwelling. Brick and timber windows are proposed for the primary dwelling to complement the existing fabric of the contributory building.

(p) Despite the rear addition complying with the height controls it is still an overdevelopment of the site as the rear structure will be viewable from the adjoining neighbours at 134-138 Redfern Street and surrounding area.

(q) The appearance of the building is not considered to be in harmony with the buildings around it being generally characterised by two-three storey buildings.

Response: As discussed above, the height, massing and bulk of the proposed development is considered appropriate for the context.

(r) The design is not consistent with the character of the surrounding area as it has minimal architectural design.

Response: The architectural design of the rear addition is in accordance with the DCP controls for pavilion additions. In the context of the site, the proposed built form and massing of the secondary dwelling is considered to be consistent with the adjoining sites and surrounding area.

Construction Impacts

(s) Wells Street is a narrow one-way shared street. There is no room for construction traffic and it will be dangerous for the high volume of pedestrians and cyclists.

Response: A condition is recommended that requires preparation of a construction traffic management plan prior to a Construction Certificate being issued, to ensure that impacts of construction traffic are appropriately managed.

(t) Request for dilapidation report to be provided for adjoining properties to ensure the proposed demolition will not impact adjoining sites.

Response: A condition is recommended requiring a preparation of a dilapidation report for the adjoining properties.

(u) Impact of construction noise and dust. Construction hours should be limited to 7.30am-5.00pm Monday to Friday and 7.30am-12.30pm Saturday.

Response: A condition is recommended that restricts the construction hours in accordance with the City of Sydney Code of Practice for Construction Hours/ Noise 1992.

(v) The construction management plan is inaccurate and references the wrong legislation.

Response: The submitted construction management plan is not approved. A condition is recommended requiring submission of an updated plan prior to issue of a construction certificate.

(w) The construction management plan states the builders will load and unload from within the site however this is not possible as there is no vehicular access within the boundaries of the site.

(x) Unclear how the debris will be removed and new materials unloaded during construction.

(y) A skip bin will be placed on Wells Street during construction which will block the street.

(z) Establishment of a works zone will have a negative impact on Wells Street.

Response: Relevant conditions are recommended to manage the construction impacts, including loading and unloading during construction.

Traffic

(aa) No traffic impact statement has been provided by the applicant.

Response: The proposed development does not meet the requirements for preparation of a Traffic Impact Study stipulated by Section 3.11.1 of the Sydney DCP 2012.

(bb) The lack of provision of parking will add congestion to an already overburdened laneway.

Response: The Sydney LEP 2012 stipulates a maximum of two car parking spaces for the subject site. The objective of this control is to restrict the number of car parking spaces provided by a development and subsequently minimise the amount of vehicular traffic generated. The proposal complies with this requirement as no additional parking is proposed.

Waste and Stormwater

(cc) There is a potential hazard for water drainage from the site to 134-138 Redfern Street.

Response: A stormwater drainage plan has been provided demonstrating drainage from the site will not impact on adjoining properties.

(dd) Inability to store garbage for collection on site. Garbage for the existing home is currently stored in the car parking area of the adjoining property and along the footpath in front of the property.

(ee) Inappropriate waste management and collection procedures resulting in a non-compliance with Council's guidelines for waste management in new developments.

(ff) The side passage is so narrow that bins and a walkway cannot be comfortably combined.

Response: A Waste Management Plan (WMP) has been provided with the subject application. A waste storage area has been provided within the site boundary and the WMP outlines sufficient management procedures in accordance with Council policy. A condition is recommended to ensure compliance with the City's Guidelines for Waste Management in New Development.

(gg) The proposed location for waste storage is too close to the apartments at 134-138 Redfern Street.

Response: The waste storage area is setback approximately 1.5m from the eastern property boundary, which is considered a sufficient level of separation in this instance.

Documentation

(hh) There are errors in the DA documentation and therefore a full and proper assessment of the proposal cannot be undertaken by Council.

Response: Council Officers have carried out a site visit to understand the context of the site, following the request for additional information made by Council, sufficient information has been provided to allow a full assessment of the potential impacts.

(ii) The cost estimate report underestimates the cost of works and will result in a poor-quality development.

Response: The submitted cost estimate has been considered as acceptable. Any minor changes to the cost estimate will not have any implications on delegations or contributions payable.

(jj) The secondary dwelling looks like it exceeds the 60sqm maximum, can Council check the calculations submitted by the applicant.

Response: An assessment of the proposed gross floor area (GFA) has been undertaken. The proposal demonstrates compliance with the maximum GFA for secondary dwellings and overall floor space ratio for the site.

General

(kk) There is already and oversupply of one-bedroom apartments in the area. The proposed development will adversely impact on the property value of neighbours.

Response: The submission is noted; however land and property values are not a planning consideration. The proposed residential use is permissible and consistent with the zone's objectives.

(ll) The existing outbuilding has been operating as an illegal AirBnB.

Response: The subject site was previously subject to compliance action which is now closed. See 'Compliance Action' section above for further details.

(mm) The residents of 51-53 Wells Street often illegally park on the common property of 134-138 Redfern Street.

Response: Alleged illegal parking must be referred to Council's compliance unit for action by residents.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

53. The proposed secondary dwelling is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015 as it is considered as a 2-bedroom dwelling that results in a net increase in resident population.

54. A condition relating to this contribution has been included in Attachment A, requiring payment prior to the issue of a construction certificate.

55. The alterations and additions to the existing dwelling is otherwise excluded from a Section 7.11 development contribution as it is a type of development listed in Table 2 of the City of Sydney Development Contributions Plan 2015.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

56. The site is located within the Residual Lands affordable housing contribution area.

57. The proposed development is not subject to an affordable housing contribution as it does not involve:

    (a) erection of a new building resulting a gross floor area (GFA) greater than 200sqm;

    (b) alterations to an existing building resulting in the creation of more than 60sqm of GFA for the purpose of residential accommodation; or

    (c) change of use of more than 60sqm of existing floor area of a building.

Relevant Legislation

58. Environmental Planning and Assessment Act 1979.

Conclusion

59. The proposed alterations and additions are generally consistent with the zone objectives contained in Sydney Local Environmental Plan 2012.

60. The development, as amended and subject to conditions, achieves an acceptable standard of architectural design, materials, and detailing and achieves design excellence.

61. The development is generally consistent with the design requirements of Section 4.1 of Sydney Development Control Plan 2012. Where non-compliances exist, they have been demonstrated in this report to be acceptable in the circumstances of the proposed development or can be resolved by the recommended conditions.

62. The buildings, as amended and subject to conditions, have been designed with an acceptable bulk and scale. The proposal is consistent with the objectives and desired future character for the locality and the Redfern Estate heritage conservation area.

ANDREW THOMAS

Executive Manager Planning and Development

Veronique Hoffman, Planner

Item 6.

Development Application: 175 St Johns Road, Glebe - D/2023/107

File No.: D/2023/107

Summary

Date of Submission:	Lodged 22 February 2023, amended 20 July 2023
Applicant:	JASA Projects Pty Ltd
Designer:	Astley Homes
Developer/Owner:	JASA Projects Pty Ltd
Planning Consultant:	Cohesive Planning
Heritage Consultant:	Patrick O'Carrigan + Partners P/L
Cost of Works:	$45,000
Zoning:	Zone R1 General Residential - the proposed co-living housing development is permitted with consent in the zone.
Proposal Summary:	Alterations and additions to an existing boarding house (co living) to convert an existing communal living room to a private co-living housing room and construction of a new outbuilding containing a new communal living room, kitchen, laundry and WC. **Notification and exhibition** In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 28 days between 2 March 2023 and 31 March 2023. A total of 209 properties were notified and 5 submissions were received. Issues raised in submissions include: the outbuilding being built to the side and rear boundaries, impacts on the structural integrity of neighbouring buildings, the height of the new outbuilding, reduction in deep soil, soft landscaping and tree canopy cover, overshadowing, non-compliances with common living room and common open space size requirements, discrepancies in submitted

documentation and whether the proposal is for co-living housing or a boarding house use.

Assessment

The proposed development complies with the relevant floor space ratio and height controls contained in the Sydney LEP 2012 (the LEP) and the SEPP (Housing) 2021 (the Housing SEPP).

The subject proposal seeks approval of variations to non-discretionary development standards contained at Housing SEPP section 68 and which pertain to:

- communal living areas (40% under provision);
- communal open space (65% under provision); and
- carparking (100% under provision).

The subject proposal also seeks approval of a 77% variation to the minimum lot size development standard contained at Housing SEPP section 69.

No written request seeking to justify the contravention of the development standards listed above was submitted as part of the subject application. Subsequently and in accordance with LEP clause 4.6 development consent must not be granted to the subject application.

The subject proposal does not comply with controls contained in the Sydney DCP 2012 (the DCP) for bicycle parking, bulky waste storage areas, solar access diagrams, deep soil, common open space, private open space and Plan of Management requirements.

The development proposed under the subject development application (DA) contravenes several development standards by more than 10% and as such the subject DA is required to be determined by the Local Planning Panel.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls: Sydney Local Environmental Plan 2012

Sydney Development Control Plan 2012

SEPP (Biodiversity and Conservation) 2021

SEPP (Building Sustainability Index: BASIX) 2004

Attachments: A. Selected Drawings

Recommendation

It is resolved that consent be refused for Development Application Number D/2023/107 for the reasons listed below.

Reasons for Recommendation

The application is recommended for refusal for the following reasons:

Failure to submit written justifications for contravention of development standards

(A) The proposed development contravenes non-discretionary development standards for:

- the provision of communal living area;
- communal open space; and
- car-parking;

specified at section 68(2)(c), (d) and (e) of the State Environmental Planning Policy (Housing) 2021 (the Housing SEPP).

(B) The proposed development contravenes the development standard pertaining to minimum lot size specified at section 69(1)(b) of the SEPP (Housing) 2021.

(C) A written request seeking to justify the contravention of the development standards listed above has not been submitted for the subject application. Subsequently and in accordance with clause 4.6 of the Sydney Local Environmental Plan 2012 (the LEP) development consent must not be granted to the subject application.

Inadequate common open space provision

(D) The proposed development provides a communal open space that does not achieve:

- the minimum area and dimension requirements for communal open space pursuant to the non-discretionary development standard specified at section 68(2)(d) of the Housing SEPP; and
- the minimum area and dimension requirements for communal open space specified at provision 4.1.4.4 of the Sydney Development Control Plan 2012 (the DCP).

(E) As such the proposal is contrary to objectives 4.4.1(a) of the DCP to ensure an acceptable level of amenity and accommodation in boarding houses, 1.2(h) of the LEP to enhance the amenity and quality of life of local communities, section 3(c) of the Housing SEPP to ensure new housing development provides residents with a reasonable level of amenity and section 1.3(g) of the Environmental Planning and Assessment Act 1979 to promote good design and amenity of the built environment.

Inadequate bicycle parking

(F) The proposed development fails to provide a bicycle parking space in association with the proposed new private boarding room. The proposal fails to satisfy DCP provision 3.11.3(2) and contravenes the bicycle parking requirements at section 69(1)(h) of the Housing SEPP.

(G) As such the proposal is contrary to objectives:

- 3.11(a) and (b) of the DCP to ensure transport demand is managed sustainably, and that bicycle parking is considered in all development; and
- 3(d) of the Housing SEPP to promote planning and delivery of housing where it will make good use of existing and planned infrastructure.

Inadequate waste storage facilities

(H) The proposed development does not provide a separate area for bulky waste storage to avoid illegal waste dumping. The proposal:

- fails to address the waste management requirements specified at DCP provision 3.14.3(4); and
- is contrary to DCP objective 3.14(c) to ensure waste can be collected and disposed of in a manner that is healthy, efficient and minimises disruption to amenity.

Lack of deep soil provision

(I) The proposed development does not provide adequate deep soil and fails to satisfy provision 4.1.3.4 of the DCP. The proposal is contrary to objectives:

- 4.1.3(a) and (b) of the DCP to enhance residential amenity by ensuring adequate deep soil planting and to reduce urban heat load and increase canopy cover and ground absorption of water;
- 1.2(h) of the LEP to enhance the amenity and quality of life of local communities; and
- section 1.3(g) of the Environmental Planning and Assessment Act 1979 to promote good design and amenity of the built environment.

Inadequate private open space

(J) The proposal exacerbates existing non-compliance with DCP private open space requirements and fails to satisfy the requirements of DCP provision 4.4.1.4.

(K) As such the proposal is contrary to objectives;

- 4.4.1(a) of the DCP to ensure an acceptable level of amenity and accommodation in boarding houses;
- 1.2(h) of the LEP to enhance the amenity and quality of life of local communities;

- section 3(c) of the Housing SEPP to ensure new housing development provides residents with a reasonable level of amenity; and

- section 1.3(g) of the Environmental Planning and Assessment Act 1979 to promote good design and amenity of the built environment.

Insufficient information

(L) The submitted shadow diagrams do not accurately illustrate overshadowing impacts from the proposed development to neighbouring properties in accordance with the requirements of DCP provision 4.1.3.1(3).

(M) The submitted Plan of Management does not refer to or reflect the proposed development and fails to adequately address the requirements of DCP provision 4.4.1.7.

Failure to exhibit design excellence

(N) The proposed massing of the new outbuilding in the rear yard significantly reduces the useable common open space area such that it does not achieve the minimum size requirements pursuant to the SEPP (Housing) 2021 and provision 4.4.1.4 of the DCP.

(O) The proposed new communal living room is not designed to maximise its connection and integration with the already under-sized communal open space area.

(P) The site does not have the capacity to accommodate and the proposal does not seek to provide adequate bicycle parking or a bulky waste storage area.

(Q) For these reasons, the proposal does not demonstrate that the site is suitable and does not demonstrate design excellence. As such the proposal is contrary to the aims of the plan specified at LEP clause 1.8(2)(j) and which is to achieve a high quality urban form by ensuring that new development exhibits design excellence. In accordance with LEP clause 6.21C(1) development consent must not be granted.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 908674 and is known as 175 St Johns Road, Glebe. It is rectangular in shape with an area of 180.6 sqm. It has a street frontage of 6.095m to St Johns Road. The site is located approximately 25m northeast of the intersection of Ross Street and St Johns Road. The site falls by up to 0.47m from the northwest (the rear of the site) to the southeast (the front of the site to St Johns Road).

2. The site contains a three storey terrace with an attic level which operates as a boarding house. The surrounding area is characterised by a mixture of residential and commercial land uses. Immediately adjacent properties fronting St Johns Road are residential dwellings. Adjacent to the northwest (the rear of the site) is a large commercial building that fronts Ross Street. On the opposite south-eastern side of St Johns Road are several properties that accommodate commercial uses at ground and shop top housing above.

3. The site does not contain a heritage item. However, it is in the vicinity of several local heritage items including the shop and residence group at 198-206 St Johns Road (I809), the Nag's Head Hotel at 162-170 St Johns Road (I808) and the Electricity Substation No. 267 at 19 Ross Street (I2249). The site is identified as containing a contributory building in the Hereford and Forest Lodge conservation area (C33).

4. The site is in the Ross Street locality and is not subject to flooding.

5. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds



Figure 2: St Johns Road elevation of subject site

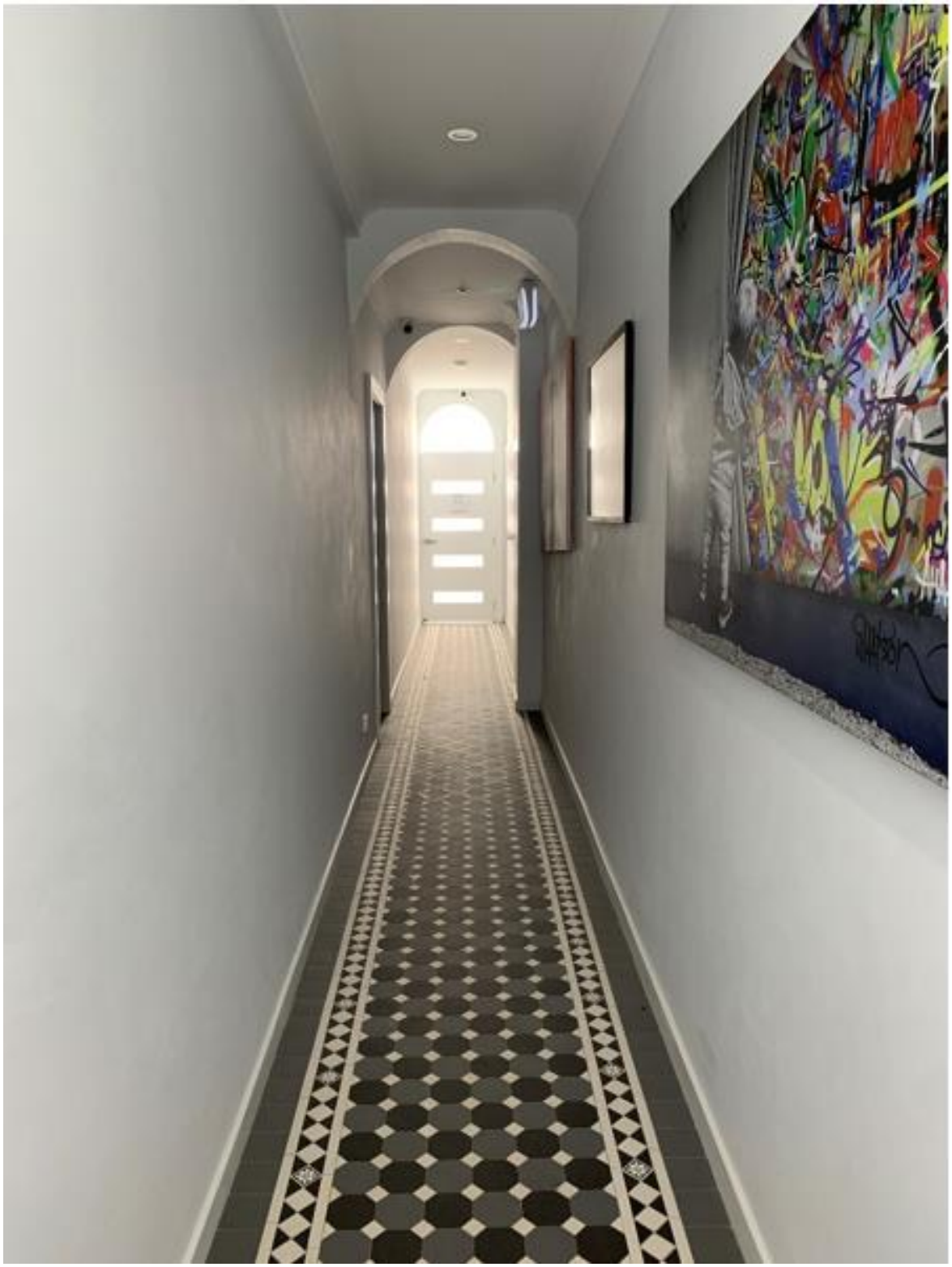


Figure 3: View from front door, along hallway to back door to rear yard



Figure 4: View from back door, along hallway to front door



Figure 5: Northwest elevation and rear wing of existing terrace viewed from the rear yard



Figure 6: View towards the north eastern facade of existing rear wing and to the rear yard beyond



Figure 7: View towards the north western end of the existing common room (in the rear wing)



Figure 8: View towards the south eastern end of the common room (in the rear wing)



Figure 9: View to rear of adjacent dwelling to the northeast at 173 St Johns Road



Figure 10: View to the rear of adjacent dwelling to the southwest at 177 St Johns Road

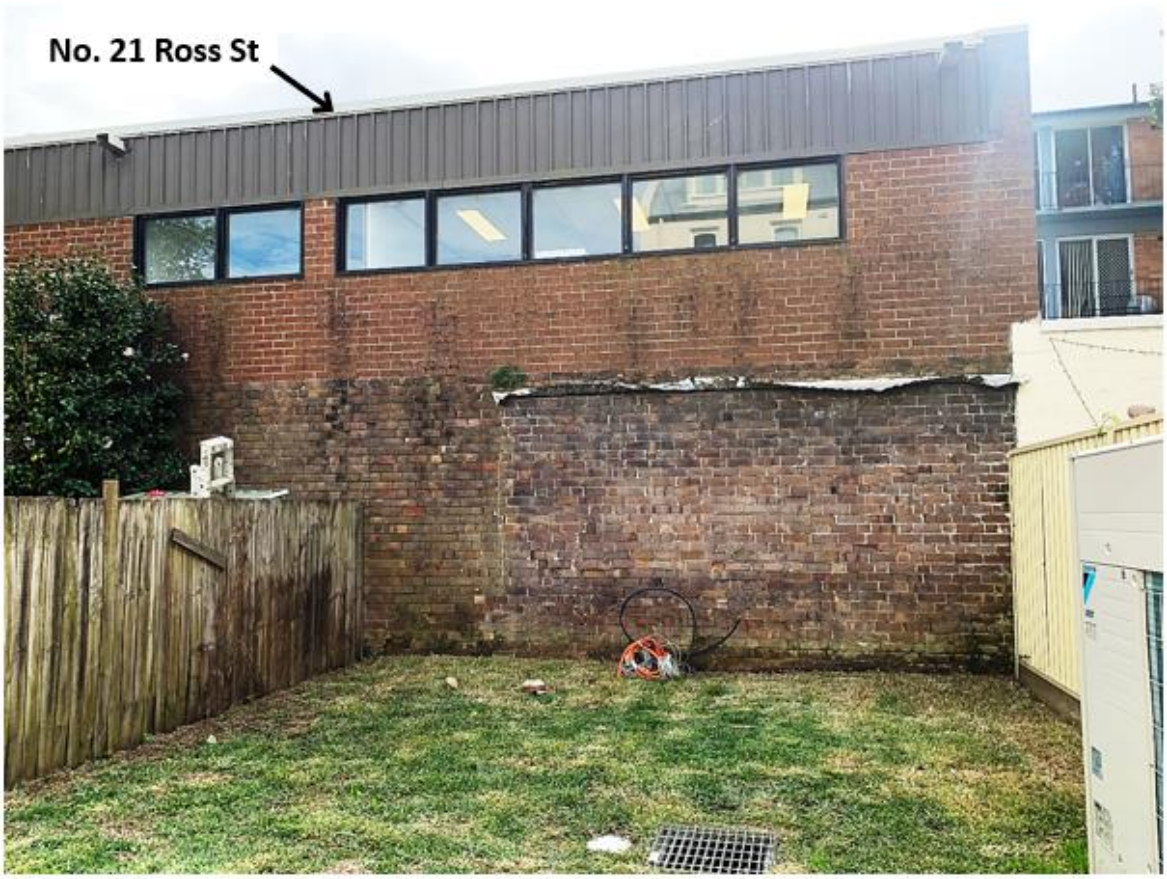


Figure 11: View to rear yard with adjacent commercial building fronting Ross Street

History Relevant to the Development Application

Development Applications

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

Building Application No. 14264

7. Building Application No. 14264 - On 2 December 1975, approval was granted by Leichhardt Council for installation of new bathroom facilities and a partition between first floor bedrooms. The premises has been registered as a boarding house since 22 February 1978. The original licence number was 4010, issued under the Local Government Act 1919.

D/2018/759

8. On 10 October 2018, development consent was granted for alterations and additions to the existing boarding house including restoration of the front facade, internal reconfigurations, construction of attic level with two roof dormers and installation of rear garden barbeque facilities.

9. The works approved under this consent comprised seven boarding rooms, a common room in the ground level rear wing with kitchen and laundry facilities and a WC, a rear yard with garden planter beds, a clothesline, lawn and paved areas and an existing outbuilding was to be retained and converted for use as a BBQ gazebo and WC.

10. P/2021/759 - On 5 July 2021, Construction Certificate no. CC 060/21 was issued by a private certifier, and which included a reconfigured design for the common room in that it was reduced in size and was accessed via a single door through the laundry rather than having two doors.

11. Refer to the Compliance section below which details investigations by Council Officers into unauthorised works and departures from development consent D/2018/759 and CC 060/21.

Withdrawn / cancelled applications

12. RD/2018/759/A - On 20 May 2019, a s8.2 application for a review of the determination of D/2018/759 was cancelled as the application was lodged later than six months from the date the DA was determined and during which time such a decision may be reviewed.

13. D/2020/167 - On 26 May 2020, a development application for alterations and additions to construct a rear roof extension and front dormer for two additional rooms within the attic space was withdrawn.

PDA/2021/72

14. On 30 March 2021, pre-DA advice was provided in response to a proposal for a rear first floor addition above the existing ground floor wing to create an additional boarding room accessed via an external stair, construction of a new deck behind the parapet at attic level and an extension of ground level BBQ area at the rear of the site.

Withdrawn applications

15. D/2021/1112 - On 7 December 2021, a development application for alterations and additions to construct two additional boarding rooms, was withdrawn.

16. D/2022/382 -

    (a) On 6 May 2022, this development application for alterations and additions to construct an additional double boarding room was lodged with Council.

    (b) On 10 June 2022, Council Officers wrote to the Applicant to advise that the proposal was not supported. for various reasons including that:

        (i) it failed to address the co-living housing requirements of the Housing SEPP;

        (ii) it did not achieve design excellence;

        (iii) it proposed insufficiently sized communal indoor living and communal open spaces;

        (iv) it did not provide private open space for the new boarding room;

        (v) it provided poor amenity to the proposed new boarding room;

        (vi) submitted solar access information was insufficient;

        (vii) existing trees were not shown on the proposed drawings;

        (viii) a schedule of colours, materials and finishes had not been provided; and

(ix) motorcycle parking had not been provided and a clause 4.6 variation to justify a variation to the Housing SEPP's motorcycle parking requirements had not been provided.

(c) On 29 June 2022, the application was withdrawn.

SEPP (Housing) 2021 and related policy changes

17. From 29 July to 9 September 2020, the Deptartment of Planning, Industry and the Environment (DPIE) exhibited an Explanation of Intended Effect (EIE) for a proposed new Housing Diversity State Environmental Planning Policy (Housing Diversity SEPP).

18. The EIE proposed that the new policy sought to:

(a) introduce new definitions for build to rent housing, student housing and co-living housing;

(b) amend some state level planning provisions, particularly for boarding house and seniors housing development;

(c) amend some state level planning provisions to support social housing developments undertaken by the NSW Land and Housing Corporation (LAHC) on government owned land; and

(d) consolidate the SEPP (Affordable Rental Housing) 2009, SEPP (Housing for Seniors and People with a Disability) 2004 and SEPP No 70 – Affordable Housing (Revised Schemes).

19. From 31 July to 29 August 2021, the draft Housing SEPP was exhibited alongside draft amendments to the Environmental Planning and Assessment Regulation and the Standard Instrument Order.

20. On 26 November 2021, the SEPP (Housing) 2021 commenced, as did the Environmental Planning and Assessment Amendment (Housing) Regulation 2021 and the Standard Instrument (Local Environmental Plans) Amendment (Miscellaneous) Order 2021.

21. The Standard Instrument (Local Environmental Plans) Amendment (Miscellaneous) Order 2021 amended the Standard Instrument in various ways including to change the definition of boarding house and to introduce a new housing type known as co-living housing.

22. The Standard Instrument (Local Environmental Plans) Amendment (Miscellaneous) Order 2021 also had the effect of amending the Sydney Local Environmental Plan 2012 (the LEP) under section 3.20(4) of the Environmental Planning and Assessment Act 1979 (the EP&A Act).

Compliance Action

23. The site has previously been subject to compliance action, which is now closed, but which has some relevance to the subject application.

24. Unauthorised works and departures from development consent D/2018/759 and CC 060/21.

25. In June 2022, as part of the assessment of DA no. D/2022/382 (which was subsequently withdrawn) Council's Planning Officer inspected the subject site and noticed that the development as built was inconsistent with the plans approved by development consent D/2018/759.

26. The departures from the DA approval included that the approved communal living room was reduced in size from 15sqm to 10.8sqm. Access to the communal living room was via a single door through the laundry rather than having two doors. The outbuilding/shed, which was to be converted to a communal barbeque gazebo with WC, was demolished without consent. The barbeque had not been provided. The communal open space area had not been embellished with landscaping and other facilities (clothes line, waste storage) as indicated on the approved plans.

27. Compliance Officers inspected the site and confirmed that with the exception of the demolition of the outbuilding/shed, the works described above while deviating from the DA approved design, were consistent with the drawings approved under the Construction Certificate number: CC 060/21 (P/2021/1480). The compliance action (HBC/2022/345) was closed.

Amendments to subject application

28. Following an assessment of the proposed development Council Officers wrote to the Applicant a letter dated 30 June 2023 to identify issues to be addressed by submission of the following design amendments:

    (a) The communal living area is undersized and blocks the neighbour's windows. Amended drawings are to be submitted to provide a communal living area that achieves the minimum size requirements for co-living housing and that does not block the neighbour's windows.

    (b) The proposed new boarding room has windows that open onto a common circulation space (i.e. a breezeway / side passage). No privacy measures are proposed to be applied to these windows and amended drawings are to be submitted to address these privacy concerns.

    (c) The proposed communal outdoor open space does not receive the minimum solar access requirements. This, along with other non-compliances with amenity requirements contribute to diminish the standard of amenity to be provided to the future intended occupants. Amendments to increase solar access to the communal open space as well as other elements of the proposal must be improved.

    (d) The proposed new room does not satisfy minimum private open space requirements. Amended drawings were sought to provide a private open space to the proposed new boarding room.

    (e) The proposed development does not include a tree planting to achieve minimum urban tree canopy requirements and to replace trees removed in accordance with consent D/2018/759 and trees removed without approval. It was recommended that the proposal be amended to include at least one tree planting.

(f) A schedule of colours, materials and finishes has not been submitted as part of the subject application. Amended drawings were sought that include a schedule of finishes that is keyed to the elevations, and materials, colours, finishes and specifications of all building elements including skylights, roofing material and profile.

(g) The proposal seeks approval for a variation to the minimum lot size for co-living housing development standard. A written justification pursuant to clause 4.6 of the Sydney LEP 2012 (the LEP) was requested to demonstrate that compliance with the development standard is unreasonable or unnecessary in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

(h) Amended drawings were sought to address the requirements of the Housing SEPP pertaining to provision of a manager's workspace, separation between the proposed new boarding room and the communal living room and provision of bicycle parking.

(i) Amended drawings were sought that incorporate suitable waste storage facilities.

29. The Applicant responded by submitting amended drawings and a written response that addresses each of the issues listed above as follows:

(a) No change has been made to the communal living room. The communal living room is larger (16.8sqm or 1.3sqm for each of the 13 proposed residents) than that which was approved by D/2018/759 (14.5sqm or 1.2sqm for each of the 12 proposed residents) and is sufficiently sized to cater to the needs of its future intended occupants. The proposed new outbuilding that will contain the communal living room does not block the neighbour's windows.

(b) Amended plans include annotations for windows to the new proposed boarding room to be 'treated with opaque glazing to a sill height of 1.6m' to address privacy concerns.

(c) Amended drawings include shadow diagrams that demonstrate that solar access is provided to 50% of the area of the proposed communal open space for 1 hour between 9am and 10am at midwinter and to 30% of the area of the proposed communal open space for 1 hour between 10am and 11am at midwinter. An assessment of solar access to communal open space must be led by the requirements for solar access to communal living areas specified at clause 69(2)(c) of the Housing SEPP. On this basis the solar access requirements of the Housing SEPP are satisfied and the non-compliance with requirements for solar access to communal open space contained in the Sydney DCP 2012 (the DCP) is acceptable.

(d) No change has been made to provide private open space in association with the proposed new boarding room. A variation to DCP private open space requirements is acceptable in this instance as the site is located in proximity to services and the proposed communal indoor space provides on site opportunities for social interaction and recreation. The Housing SEPP specifies open space requirements, which prevail over the DCP, and the proposed new boarding room provides good amenity in terms of solar access and privacy, and which compensate for a lack of a private balcony or courtyard.

(e) Tree removal was approved by development consent D/2018/759 and a replacement tree planting was approved in accordance with condition (21) ADVANCED TREE PLANTING of that consent. This existing tree satisfies DCP urban canopy cover requirements.

(f) A schedule of finishes has been provided in the amended DA package.

(g) A clause 4.6 variation to justify a variation to the minimum lot size development standard has not been submitted. The applicant's view is the proposal comprises minor alterations or additions and therefore, pursuant to Housing SEPP clause 69(3), the minimum lot size development standard at Housing SEPP clause 69(1) does not apply.

(h) A workstation has been provided in the proposed new communal living room. The requirements of Housing SEPP clause 69(2)(b) with regard to building separation are to address visual privacy and that suitable visual privacy is achieved by avoiding any direct interfaces between the proposed new boarding room, communal living room and the communal open space. The Applicant submits that the existing boarding house has three bicycle parking racks under the stairs and that these are illustrated on the submitted drawings.

(i) Waste storage areas are shown on the submitted drawings.

Proposed Development

30. The application (as amended) seeks consent for alterations and additions to the existing boarding house which currently comprises seven boarding rooms (with maximum capacity of 12 persons), a communal living room and a rear yard as follows:

Ground level

(a) internal alterations to the existing rear wing to construct a new private boarding room (to increase max. capacity of the boarding / co-living housing to 13 persons);

(b) construction of a new outbuilding adjacent to the western boundary to accommodate a communal living room with a kitchen and workstation, laundry and WC;

(c) demolition of existing structures in the rear yard including AC plant/equipment and drainage; and

(d) landscaping in the rear yard including provision of pavers from the existing door from the main building to the new outbuilding.

31. Plans and elevations of the proposed development are provided below.

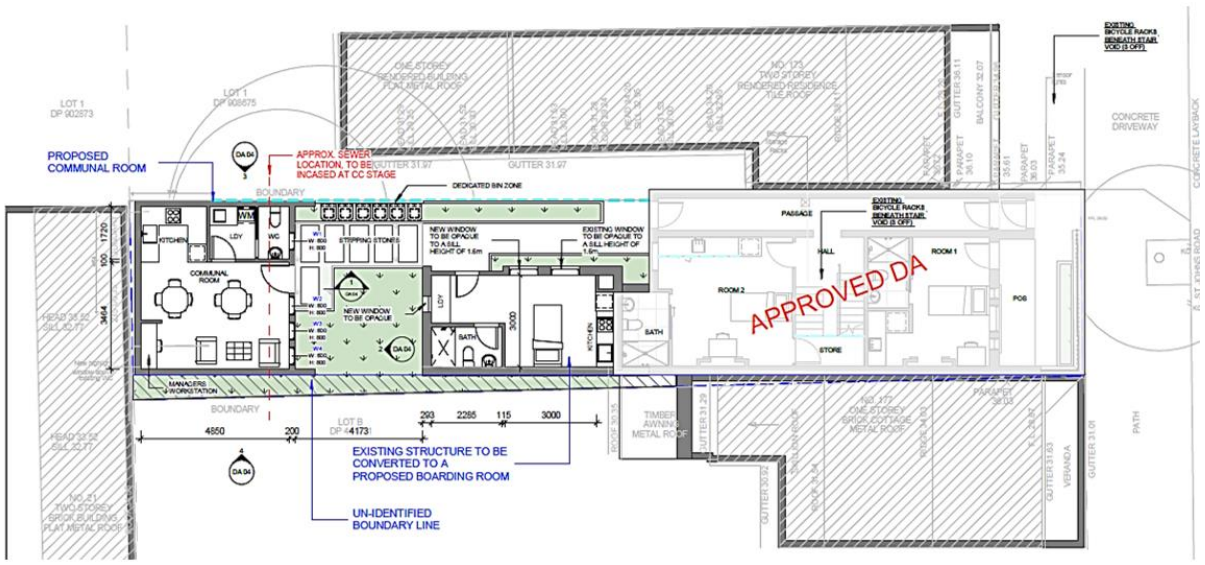


Figure 12: Proposed ground level plan

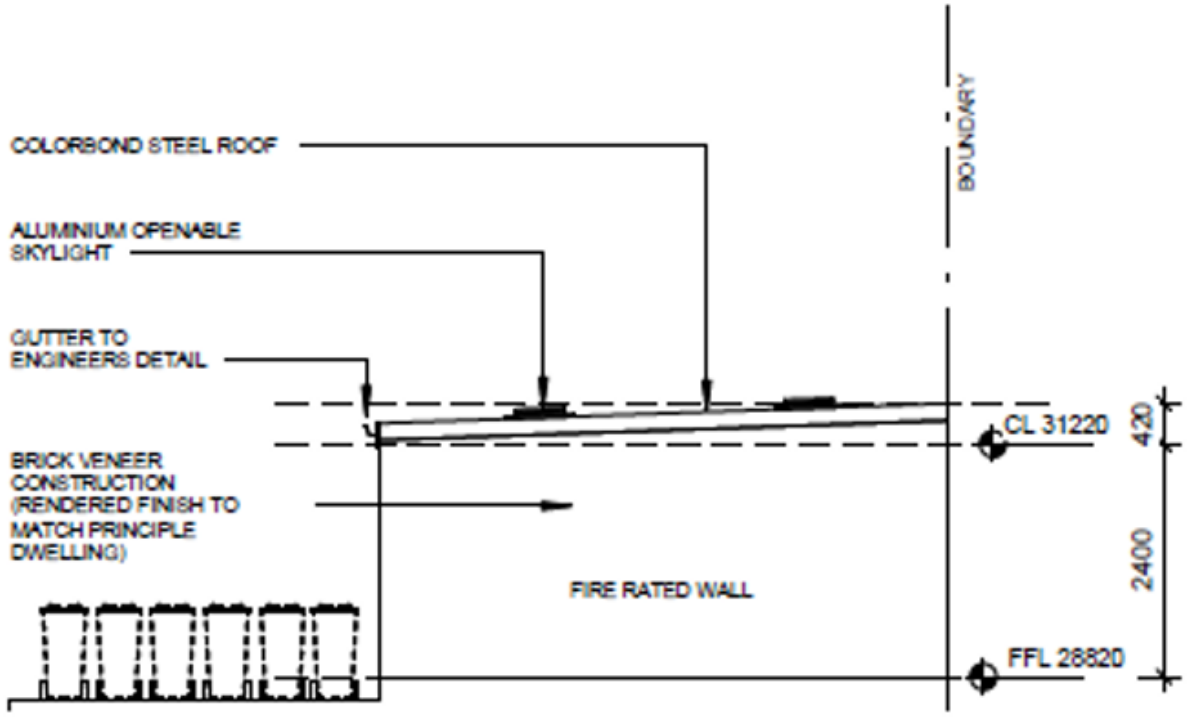


Figure 13: North elevation of proposed new outbuilding

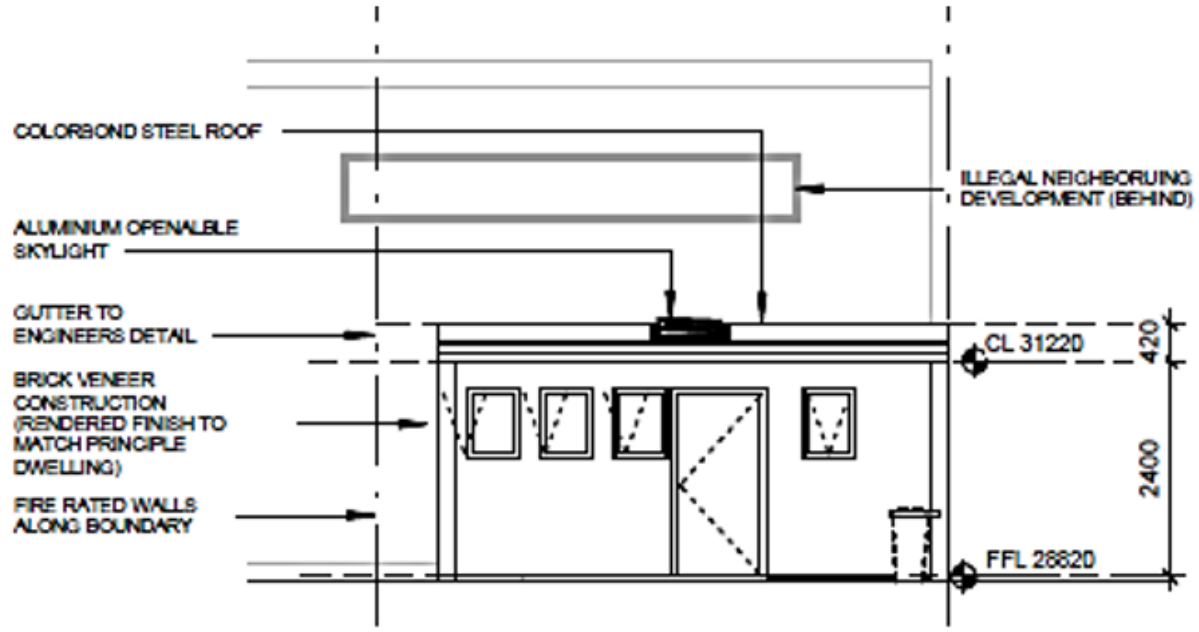


Figure 14: East elevation of proposed outbuilding

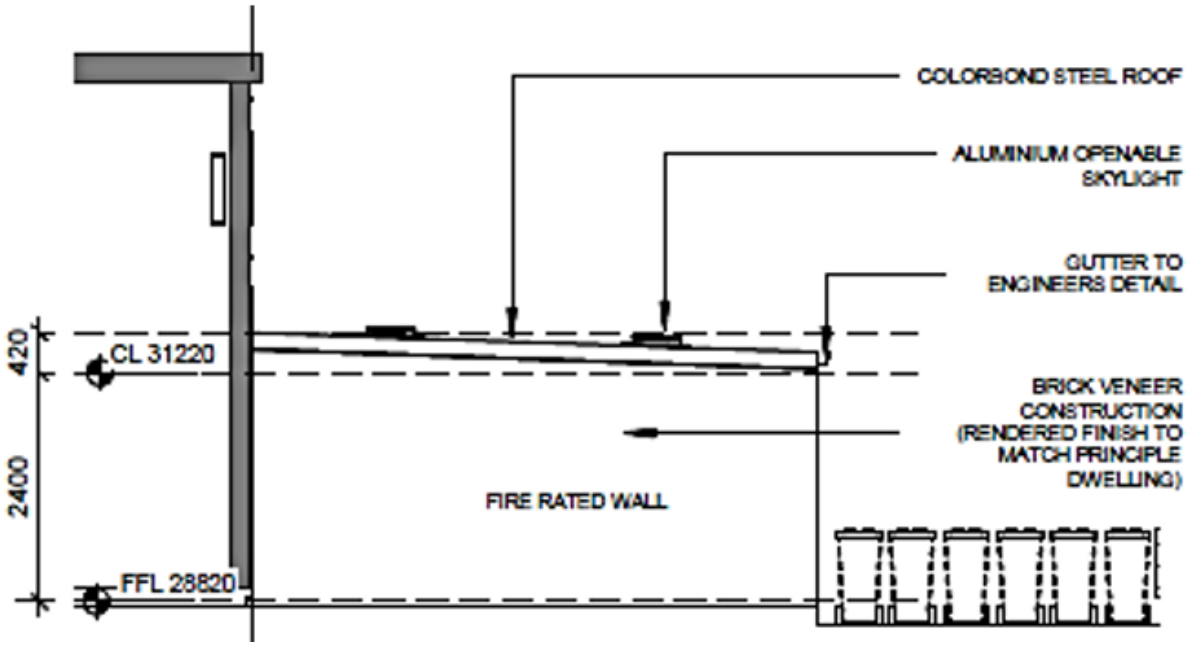


Figure 15: South elevation of proposed outbuilding

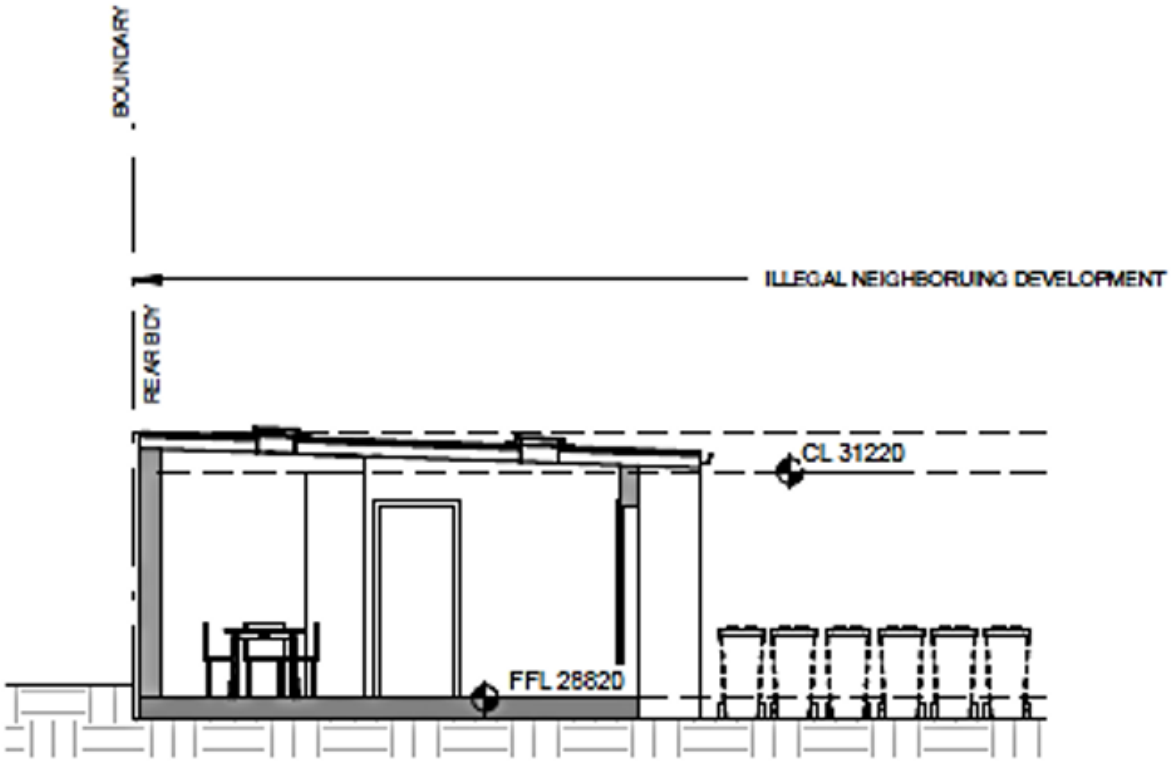


Figure 16: Long section of new communal living room in proposed outbuilding

Assessment

32. 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 (Housing) 2021

33. As discussed in the History section of this report above, changes to the Standard Instrument Local Environmental Plan which affect Standard Instrument LEPs such as the Sydney LEP 2012 (the LEP) associated with the commencement of the SEPP (Housing) 2021, came into effect on 26 November 2021. This included changes to the definition of a boarding house and to introduce a new housing type known as co-living housing.

34. Under these new definitions a boarding house must be operated by the NSW Land and Housing Corporation or a registered community housing provider. For this reason, the development proposed under the subject application is best characterised as co-living housing and which is akin to a boarding house as defined before the SEPP (Housing) 2021 and associated policy changes took effect.

35. The proposed co-living housing development is to provide a new private room, a new outbuilding containing a communal living room and facilities, and landscaping to alter and augment the existing boarding house use.

36. As the proposed development is characterised as co-living housing, the subject application is assessed against the provisions applicable to co-living housing contained in Part 3 of Chapter 3 Diverse Housing of the SEPP.

Chapter 3 Diverse Housing

Part 3 Co-living Housing

Section 67 - Co-living housing may be carried out on certain land with consent

37. Section 67 of the SEPP specifies that development for the purposes of co-living housing may be carried out with consent on land in a zone in which development for the purposes of co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument.

38. The proposed co-living housing development is on land in the Zone R1 General Residential as specified by the Sydney LEP 2012 (the LEP). Co-living housing is permitted with consent in zone R1 and as such may be carried out with consent pursuant to this SEPP clause.

Section 68 – Non discretionary development standards - the Act s4.15

39. The object of section 68 of the SEPP is to identify development standards for co-living housing that, if complied with, prevent the consent authority from:

    (a) taking those standards into further consideration in determining the DA;

    (b) refusing the DA on the grounds that it does not comply with those standards; and

    (c) must not impose a condition of consent that is more onerous than those standards.

40. If the proposal does not comply with those non-discretionary standards, then:

    (a) the consent authority is freed from the limitations described in the paragraph above and it may exercise its discretion in regard to those matters; and

    (b) a provision in an environmental planning instrument that allows flexibility in the application of a development standard (such as clause 4.6 Exceptions to development standards in the Sydney LEP 2012) may be applied to the non-discretionary development standard.

41. An assessment of the proposed co-living housing development against the non-discretionary development standards specified at section 68 of the SEPP is provided in the table below.

Provision	Compliance	Comment
Density and scale expressed as floor space ratio A maximum FSR of up to 1.5:1 plus 10% is permitted.	Yes	As per the assessment against LEP cl. 4.4 in the compliance tables below, the proposed development complies with the maximum permissible floor space ratio (FSR) and which includes an additional 10% of FSR pursuant to sub-section (2)(a). For these reasons, the

Provision	Compliance	Comment
		FSR control cannot be considered further and a more onerous FSR control cannot be applied in this in this assessment instance.
Communal living area For co-living containing more than 6 private rooms a total of at least 30m² plus 2m² per additional room and a minimum dimension of 3m.	No	The proposed development is to augment the existing premises to provide a total of 8 private rooms. The proposed new communal living room has an area of 20.58sqm. This does not achieve the 34sqm area requirement for communal living rooms and which is a 40% variation of this non-discretionary development standard. No variation request prepared in accordance with LEP clause 4.6 has been submitted to justify the variation.
Communal open space Communal open space with a total area of at least 20% of the site area and a minimum dimension of 3m.	No	The proposed development provides a communal open space (COS) equal to 7% of the site area (12.6sqm excluding path/pavers and bin enclosure) and with a minimum dimension of 2.9m. If the path/pavers are included in the COS then it equates to 11% of site area (20.4sqm). This does not achieve the 20% of site area (36.12sqm) nor does it achieve the minimum dimension of 3m required for communal open space. This is a 65% variation of the minimum area and a 3% variation of the minimum dimension common open space non-discretionary development standards. No variation request prepared in accordance with LEP clause 4.6 has been submitted to justify the variation.
Car-parking Unless a relevant planning instrument a lower number 0.2 spaces per room in an accessible area and 0.5 spaces otherwise.	No	Subsection (2)(e) states that unless a relevant planning instrument specifies a lower number (the Sydney LEP 2012 does not specify parking requirements for co-living housing uses) then for development on land in an accessible area, the site is an accessible area, 0.2 parking spaces are to be provided for each private room. The proposed development does not provide any

Provision	Compliance	Comment
		carparking spaces. This is a 100% variation of this non-discretionary development standard. No variation request prepared in accordance with LEP clause 4.6 has been submitted to justify the variation.

42. Written justifications for the proposed variations to the non-discretionary development standards outlined above have not been submitted. Refer to the Discussion section of this report below.

Section 69 – Standards for co-living housing

43. Subsection (1) states that a consent authority must not grant development consent for the purpose of co-living unless it is satisfied that the proposal addresses each of the requirements outlined in the table below.

44. Subsection (3) specifies that the development standards and requirements contained in subsection (1) do not apply to development for the purposes of minor alterations or additions to existing co-living housing.

45. The Applicant submits that the proposal comprises alterations and additions to an existing co-living housing facility and pursuant to subsection (3) the development standards and requirements at subsection (1) do not apply.

46. Council Officers consider that the proposed development comprises significant alterations and additions to the existing boarding house and as such the development standards and requirements at subsection (1) apply in this instance. Refer to the Discussion section in this report.

Provision	Compliance	Comment
1(a) No private room is to have a gross floor area (excluding private kitchen or bathroom facilities) of more than 25m² and less than 12m² for a single occupancy or 16m² otherwise	Yes	The proposed new private room has an area of 12.6sqm and which complies with the relevant development standard at subsection (1)(a).
1(b) the minimum lot size is no less than 800m²	No	The area of the subject site is 180.6sqm. This does not comply with the minimum lot size development standard of 800sqm. This is a 77% variation of the development standard.. No variation request prepared in accordance with LEP clause 4.6 has been submitted to justify the variation.

Provision	Compliance	Comment
1(c) in R2 zone the or equivalent the co-living housing will not contain more than 12 private rooms and will be in an accessible area	n/a	The site is not located in the R2 zone.
1(d) the co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space	Yes	The proposed development incorporates an appropriate workspace for the manager in the proposed new communal living room and which is in accordance with the relevant development standard at subsection (1)(d).
(1e) for co-living in a business zone no part of the ground floor that fronts a street is to be used for residential purposes unless another environmental planning instrument permits the use	n/a	The site is not located in a business zone.
1(f) adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant	Yes	The proposed development provides adequate bathroom, laundry and kitchen facilities.
1(g) each private room will be used by no more than 2 occupants	Yes	It appears that the proposed new private room is to contain a single bed, and which suggests a capacity of 1 person, and which complies with the development standard specified at subsection (1)(g). However, this is not expressly addressed anywhere in the submitted application documents.
Motorbike and bicycle parking 1(h) co-living housing will include adequate bicycle and motorcycle parking spaces.	No	Previous development consent D/2018/759 approved two bicycle parking spaces. Three bicycle parking spaces were constructed under the stair in the main terrace building. These bicycle parking spaces can only be accessed through Bedroom 2 and in practice do not provide bicycle parking for occupants of any other rooms within the development.

Provision	Compliance	Comment
		The proposal includes alterations and additions to add a new self-contained co-living housing room. This generates the need for one new bicycle parking space. No new bicycle parking space is proposed. This is unsatisfactory. No variation request prepared in accordance with LEP clause 4.6 has been submitted to justify the variation.

47. Written justifications for the proposed variations to the development standards outlined above have not been submitted. Refer to the Discussion section of this report below.

Section 69(2) – Matters for consideration

48. Section 69(2) states that a consent authority must not grant development consent for the purpose of co-living unless it considers the following matters.

Provision	Compliance	Comment
2(a) in R2 zone the front, side and rear set backs are no less than those required for multi dwelling housing in another relevant planning instrument	n/a	The site is not in the R2 zone.
2(b) if the co-living has at least three storeys the building complies with the minimum building separation distances in the Apartment Design Guide	n/a	The proposed additions comprising co-living housing are 1 storey in height. Subsequently, the building separation development standard specified at subsection (2)(b) does not apply.
2(c) at least 3 hours of solar access will be provided between 9.00am and 3.00pm at midwinter in at least 1 communal living area	Yes	The submitted shadow diagrams demonstrate that 3 hours of direct solar access is provided to the skylights of the proposed new common living room in accordance with the development standard specified at subsection (2)(c).
2(f) the design of the building is compatible with the desirable elements of the character of the local area or for precincts undergoing transition the desired future character of the precinct	No	As detailed in the assessment against the character statement and design principles for the Ross Street locality contained in DCP section 2.6.2 below, the proposed development is not in keeping with the character and the design principles of the locality in that it

Provision	Compliance	Comment
		does not demonstrate a high-quality design. Refer to the assessment against DCP provision 2.6.2 below.

Section 70 - No subdivision

49. Section 70 provides that development consent must not be granted for the subdivision of the co-living housing.

50. No subdivision is proposed under the subject application.

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

51. The proposed development is to increase the max. capacity of the boarding / co-living housing to 13 persons. As such the proposed development is not a BASIX building, as defined in the Environmental Planning and Assessment Regulation 2021 at the time of lodgement. It is not BASIX development, nor is it BASIX optional development.

52. The SEPP does not apply to the proposal. The submitted BASIX Certificate is redundant.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2 (Vegetation in Non Rural Areas) 2017

53. The SEPP states that the Council must not grant consent for the removal of vegetation within heritage sites or heritage conservation areas unless Council is satisfied that the activity is minor in nature and would not impact the heritage significance of the site.

54. Refer to the assessment against provision 3.5 of the Sydney DCP 2012 in the compliance tables below.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 6 Water Catchments

55. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the above SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.

56. 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 control of improved water quality and quantity, the controls set out in Division 2 of the SEPP are not applicable to the proposed development.

57. The proposal satisfies the relevant provisions of the SEPP.

Local Environmental Plans

Sydney Local Environmental Plan 2012

58. 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	Permitted with consent	The proposed co-living housing development is to provide a new private room, a new outbuilding containing a communal living room and facilities, and landscaping to alter and augment the existing boarding house use. The site is in the Zone R1 General Residential. Coliving housing is permitted with consent in the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	The maximum permitted height is 12m. The proposed development is to a height of 2.89m to the top of the proposed new skillion roofed outbuilding.
4.4 Floor space ratio	Yes	Refer to the assessment against LEP cl. 4.5 below for how site area has been determined for the purposes of calculating floor space ratio (FSR) in this assessment. The LEP permits a maximum FSR of 1.5:1 for the site. SEPP (Housing) 2021 cl. 68 prescribes that development for the purposes of co-living housing is eligible for an additional 10% of the maximum permissible FSR for the site. Based on the applicable FSR controls outlined above the maximum permitted FSR for the proposal is 1.65:1.

Provision	Compliance	Comment
		The floor space ratio (FSR) of the existing development is 1.2:1 (217 sqm GFA). The FSR of the proposed development is 1.35:1 (243 sqm GFA).
4.5 Calculation of floor space ratio and site area	Site area is calculated accordingly in this assessment	The submitted survey identifies the area of Lot 1 DP 908675 (i.e. the subject site) as 180.6 sqm. The boundaries illustrated on the submitted survey plan have been determined 'by survey'. However, the notes on the survey plan include a recommendation that 'a plan of redefinition be prepared prior to any design work.' Contrary to this recommendation it appears that a plan of redefinition has not been prepared. Adjacent to the southwest of the subject lot is a narrow sliver of land which physically presents as part of the site. However The status of the sliver, in terms of its ownership, is unknown. As shown on the submitted architectural drawings the proposed development is wholly contained within the subject lot (Lot 1 DP 908675) and does not encroach on the sliver of land.. In accordance with LEP cl. 4.5, if the proposed development is to be carried out on only one lot, then the site area, for the purposes of applying FSR, is taken to be the area of that lot. For the purposes of this assessment it is considered that the proposed development is to be carried out on the subject lot and not on the sliver land. The area of the subject lot is 180.6 sqm and which is the figure that has been used to calculate the FSR of the development, as detailed in the assessment against LEP cl. 4.4 above.
4.6 Exceptions to development standards	No	The subject proposal seeks approval of variations to non-discretionary development standards contained at

Provision	Compliance	Comment
		Housing SEPP section 68 and which pertain to: • communal living areas (40% under provision); • communal open space (65% under provision); and • carparking (100% under provision). The subject proposal seeks approval of a 77% variation to the minimum lot size development standard contained at Housing SEPP section 69. A written request seeking to justify the contravention of the development standards listed above has not been submitted as part of the subject application. Subsequently and in accordance with LEP clause 4.6 development consent must not be granted to the subject application. Refer to the Discussion section of this report.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is identified as containing a contributory building in the Hereford and Forest Lodge conservation area (C33). The proposed development will not have a significant adverse impact on the heritage significance of the heritage conservation area.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	No	The proposed massing of the new outbuilding in the rear yard of the existing building significantly reduces the useable common open space area such that it does not achieve the minimum size requirements pursuant to the SEPP (Housing) 2021 and provision 4.4.1.4 of the DCP. The proposed new communal living room does not satisfy the minimum size requirements pursuant to the SEPP (Housing) 2021. The proposed new communal living room is not designed to maximise its connection and integration with the already under-sized communal open space area. The site does not have the capacity to and the proposal does not seek to provide adequate bicycle parking or a bulky waste storage area. For these reasons, the proposal to increase the intensity of development, does not demonstrate that the site is suitable and does not demonstrate design excellence.

Part 7 Local provisions – general

Provision	Compliance	Comment
7.13 Contribution for the purpose of affordable housing	n/a	The proposed development is on residual lands and is for alterations and additions to an existing building that will not result in the creation of more than 200sqm of GFA for residential uses. As such this clause does not apply.
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

Provision	Compliance	Comment
		preparation of an Acid Sulfate Soils Management Plan.

Development Control Plans

Sydney Development Control Plan 2012

59. 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

2.6.2 Ross Street

60. The site is located within the locality of Ross Street. The proposed development is not in keeping with the character and the design principles of the locality in that it does not demonstrate a high quality design.

61. As such the proposal is not in keeping with the character statement for the locality and is contrary to principle 2.6.2(a) which requires development to achieve and satisfy the outcomes expressed in the character statement for the locality.

Section 3 – General Provisions

Provision	**Compliance**	**Comment**
3.2. Defining the Public Domain	Yes	The subject proposal does not seek to alter the existing interface between the existing development and the public domain.
3.5 Urban Ecology	Able to comply	A Tristaniopsis laurina (Water Gum) tree was planted in the rear yard of the subject site in accordance with condition (21) ADVANCED TREE PLANTING of consent no. D/2018/759. The submitted survey and architectural plans do not illustrate the existing tree. However, the site visit revealed that the tree was in place (refer to Figure 10 above. A tree is located in the verge adjacent to the site on St Johns Road.
3.6 Ecologically Sustainable Development	n/a	Refer to the assessment against the SEPP (BASIX) 2004 elsewhere in this report.

Provision	Compliance	Comment
3.8 Subdivision, Strata Subdivision and Consolidation	Yes	No subdivision is proposed.
3.9 Heritage	Yes	Refer to the assessment against cl.5.10 in the LEP compliance tables above.
3.11 Transport and Parking	No	Previous consent D/2018/759 approved 2 bicycle parking spaces. Three were constructed under the stair in the main building. These bicycle parking spaces can only be accessed through Bedroom 2 and in practice do not provide bicycle parking for occupants of any other rooms within the development. This provision specifies that one bicycle parking space is provided for each dwelling. The proposal includes alterations and additions to add a new self-contained co-living housing room, and which is defined as a type of residential accommodation. Thisgenerates the need for one new bicycle parking space. No new bicycle parking is proposed.
3.12 Accessible Design	Able to comply	The proposal is able to address the relevant access requirements of the National Construction Code (NCC).
3.13 Social and Environmental Responsibilities	Yes	The proposed development does not alter the public domain interface or passive surveillance of the street that is provided by the existing building.
3.14 Waste	No	The proposed development does not provide a separate area for bulky waste storage to avoid illegal waste dumping. The provision of a bulky waste storage area, likely to be in the already undersized rear yard would further exacerbate the lacking amenity of this space further.

Section 4 – Development Types

62. The introduction to Section 4 of the DCP specifies that all development proposals must reference the provision or provisions that best describe that type of development.

63. The proposed development is for alterations and additions to the existing terrace building to augment the existing boarding house to construct a new private boarding room (to increase max. capacity of the boarding / co-living housing to 13 persons).

64. As such an assessment against the provisions contained in part 4.1 (terraces) and 4.4 (boarding houses) is provided in the compliance tables below.

4.1 Single Dwellings, Terraces and Dual Occupancies

Provision	Compliance	Comment
4.1.1 Building height	Yes	The site is permitted a maximum building height of 3 storeys. The proposed development is one storey in height and complies.
4.1.2 Building setbacks	Yes	The proposed development does not alter the setbacks of the main terrace building. The proposed new outbuilding is compatible with the pattern of development in the vicinity of the site.
4.1.3 Residential amenity		
4.1.3.1 Solar access	No	The submitted shadow diagrams do not accurately illustrate overshadowing impacts from the proposed development to neighbouring properties in accordance with the requirements of this provision.
4.1.3.2 Solar collectors	Yes	The submitted shadow diagrams suggest that the proposed development will not overshadow solar panels on the neighbouring properties adjacent to the southwest.
4.1.3.3 Landscaping	No	The proposal does not include a landscape plan. Architectural drawings do not illustrate the existing tree in the backyard or other elements such as the large air-conditioning unit (shown in Figure 9 above) in the location of the proposed bin enclosure. This is unsatisfactory.

Provision	Compliance	Comment
4.1.3.4 Deep soil planting	No	The provision requires sites that exceed 150sqm to provide 15% of the site area as deep soil. The existing property has deep soil equal to approximately 28% (50sqm) of site area. The proposed development provides a deep soil zone equal to approximately 11% (20.26sqm) of site area. This is unsatisfactory.
4.1.3.5 Private open space	n/a	Refer to the assessment against provision 4.4.1.4 Communal living areas and open space below.
4.1.3.6 Visual privacy	n/a	Refer to the assessment against provision 4.4.1.6 Amenity, safety and privacy below.
4.1.4 Alterations and additions		
4.1.4.1 General	Yes	The proposed development does not remove significant building elements and respects the form, scale and setbacks of the existing terrace building.
4.1.4.4 Pavilion additions	Yes	The proposed outbuilding is of a form and scale that respects the existing terrace and will not detract from the character of the surrounding area.

4.4 Other Development Types and Uses

4.4.1 Boarding houses and student accommodation

Provision	Compliance	Comment
4.4.1.1 Subdivision	Yes	No subdivision is proposed. Refer to assessment against section 70 of the Housing SEPP.

Provision	Compliance	Comment
4.4.1.2 Bedrooms	No	**Room size** This provision requires the proposed room to have a total area of 18sqm comprising: • 12sqm for the bedroom • 2.1sqm for the ensuite • 0.8sqm for the shower in the ensuite • 1.1sqm for the laundry • 2sqm for a kitchenette. The proposed room has a total area of 17sqm comprising: • 13.16sqm for bedroom and kitchen • 2.9sqm for ensuite (incl. shower) • 0.95sqm for laundry. The proposed new private room does not satisfy the size requirements of this provision. Notwithstanding the non-compliance with room size requirements outlined above, the proposed new room does satisfy the room size requirements specified at section 69(1)(a) of the Housing SEPP and is acceptable on this basis. **Daylight access** Elevation drawings have not been submitted to demonstrate whether windows with aggregate area equal to 10% of the floor area of the bedroom are provided. A skylight is provided as a secondary source of light. **Class 3 buildings** The proposed development is to increase the capacity from 12 to 13 persons, and which is likely to result in a

Provision	Compliance	Comment
		change in building classification from a Class 1b to a Class 3 building. This provision requires that each bedroom is to meet the fire safety standards of a sole occupancy unit for a Class 3 building under the Building Code of Australia (BCA). The Applicant submits that this provision does not apply to the proposal, though no explanation has been provided as to why in their view it does not apply.
4.4.1.3 Communal kitchen areas	No	The provision requires a communal kitchen be provided that has an area of at least 6.5sqm, with one sink for every 6 persons or part thereof and one stove top cooker for every 6 persons or part thereof, with appropriate exhaust ventilation. The proposed communal kitchen has an area of 3.83sqm. It provides a single sink and stovetop cooker for 13 persons. The proposed communal kitchen does not satisfy the requirements of this control. The existing communal kitchen is also undersized and provides only a single sink and stovetop cooker for 12 persons. Each private room has a kitchenette. For these reasons, the proposed exacerbation of an existing non-compliance with this provision is acceptable in this instance.
4.4.1.4 Communal living areas and open space	No	**Communal living areas** The provision requires a communal living area with an area of 12.5sqm or 1.25sqm per resident (1.25sqm x 13 residents = 16.25sqm). The proposal includes construction of a new communal living room with an area of 20.58sqm and minimum dimensions in excess of 3m, adjacent to the communal open space and which satisfies the size and location requirements of this provision.

Provision	Compliance	Comment
		The proposed communal living room does not satisfy the minimum size requirements identified as a non-discretionary development standard contained in section 68(2)(b) of the Housing SEPP. This is unsatisfactory. **Solar and daylight access to communal living areas** The submitted shadow diagrams are in plan only and do not include shadow diagrams in elevation to demonstrate adequate solar access (2hrs of direct sun to at least 50% of windows between 9am-3pm on 21 June) is provided to the proposed new communal living room. However, the proposal satisfies the minimum daylight access requirements specified at section 69 of the Housing SEPP (which is more lenient than the DCP in that it only requires sunlight to any window or skylight opening) and is acceptable on this basis. **Communal open space** The provision requires a communal open space (COS) with a minimum area of 20sqm and a minimum dimension of 3m. The existing boarding house has a COS with an area of approximately 53sqm. The proposal includes a COS with an area of 12.6sqm (excluding path/pavers and bin enclosure) and with a minimum dimension of 2.9m. If the path/pavers are included in the COS then it equates to 11% of site area (20.4sqm). The proposed COS does not satisfy the minimum size requirements for communal open space specified in the DCP. The proposed COS does not satisfy the minimum size requirements identified as a non-discretionary development

Provision	Compliance	Comment
		standard contained in section 68(2)(d) of the Housing SEPP. **Solar and daylight access to communal open space** The proposed COS receives sunlight to between 16% (2sqm) and 33% (4.2sqm) of its area from 9am to 11am and which does not satisfy the minimum 2hrs of sunlight to 50% of the COS area requirement of this provision. **Private open space** The provision requires 30% of bedrooms to have a private open space in the form of a balcony or terrace area. Only Room 3 (first floor level at the front of the main building) of the 7 rooms in the existing boarding house has a private open space and which is equal to 14% of bedrooms within the development. The proposal is to add another bedroom without a balcony. This reduces compliance with this control to 12.5% of bedrooms with private open space within the development and is unsatisfactory.
4.4.1.5 Bathroom, laundry and drying facilities	Yes	Ensuite bathrooms are provided to each room, so a communal bathroom is not required. The proposed new outbuilding contains a communal laundry with a washing machine and sink. No dryer is provided. However, existing and proposed rooms have a laundry cupboard / facilities. For these reasons, the proposed development satisfies the requirements for provision of bathroom, laundry and kitchen facilities specified at section 69(1)(f) of the Housing SEPP.
4.4.1.6 Amenity, safety and privacy	Partial compliance	The location of the proposed new private and communal rooms, communal open space, communal laundry, WC, and kitchen allows for safety and privacy and

Provision	Compliance	Comment
		which may be equitably accessed by all residents. The proposal will not have unacceptable adverse impacts upon the safety and privacy of neighbouring properties. As outlined in the assessment against provisions 4.4.1.2 Bedrooms and 4.4.1.4 Communal living areas and open space above, non-compliance with these requirements undermines the amenity of the proposed development.
4.4.1.7 Plan of Management	No	A Plan of Management (PoM) was submitted at lodgement of the subject DA. However, it is dated 15 September 2021 and appears to pertain to one of the earlier DAs that was subsequently withdrawn. It refers to a boarding house comprising 9 rooms for 12 lodgers. Whereas the subject proposal comprises 8 rooms for 13 lodgers. The PoM contains plans that are inconsistent with those submitted as part of the subject DA. The submitted PoM does not address the requirements of this provision.

Discussion

Variations to non-discretionary development standards at s68 of the Housing SEPP

65. The object of section 68 of the Housing SEPP is to identify development standards for co-living housing that, if complied with, prevent the consent authority from:

    (a) taking those standards into further consideration in determining the DA;

    (b) refusing the DA on the grounds that it does not comply with those standards; and

    (c) must not impose a condition of consent that is more onerous than those standards.

66. If the proposal does not comply with those non-discretionary standards, then:

    (a) the consent authority is freed from the limitations described in the paragraph above and it may exercise its discretion regarding those matters; and

(b) a provision in an environmental planning instrument that allows flexibility in the application of a development standard (such as LEP clause 4.6 Exceptions to development standards) may be applied to the non-discretionary development standard.

67. As outlined in the assessment in the Housing SEPP compliance tables elsewhere in this report, the proposal contravenes the following non-discretionary development standards:

(a) Communal living area - the proposed new communal living room has an area of 20.58sqm. This does not achieve the 34sqm area requirement and which is a 40% contravention of the non-discretionary development standard specified at section 68(2) (c).

(b) Communal open space - the proposed new communal open space has area equal to 7% of the site area (12.6sqm) and with a minimum dimension of 2.9m. This does not achieve the 20% of site area (36.12sqm) and 3m minimum dimension requirements and which are 65% and 3% contraventions of the non-discretionary development standards specified at section 68(2)(d).

(c) Car-parking - the proposal does not include any car-parking provision. This does not achieve the minimum 0.2 parking space requirement, and which is a 100% contravention of the non-discretionary development standard specified at section 68(2)(e).

68. Council Officers raised these issues in correspondence with the Applicant.

69. In response the Applicant submits the following:

(a) section 68 of the Housing SEPP does not establish any minimum requirements or mandated standards. Section 68(1) leaves such matters to a merit assessment and merely states that if the numbers are met, a consent authority cannot require anything more onerous; and

(b) Council is entitled to grant consent to the proposal if those numbers are not met.

70. Council Officers consider the Applicant's submission as follows:

(a) Section 4.15(3)(b) of the Environmental Planning and Assessment Act 1979 (the Act) states that if an environmental planning instrument such as a SEPP contains a non-discretionary development standard and the proposed development does not comply with that standard, a provision of an environmental planning instrument that allows flexibility in the application of a development standard such as LEP cl.4.6 may be applied to the non-discretionary development standard.

(b) The Guide to Varying Development Standards published by the Department of Planning and Environment (the Department), states 'If a development does not comply with a non-discretionary development standard, section 4.15(3) of the Act allows the consent authority to apply clause 4.6 (or an equivalent provision) when considering and determining the development'.

71. LEP clause 4.6(3) specifies that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

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

72. The Applicant has not submitted a written request seeking to justify the contravention of the non-discretionary development standards listed above. Subsequently and in accordance with LEP clause 4.6 development consent must not be granted to the subject application.

Application of development standards contained in section 69(1) of the Housing SEPP

73. Section 69(1) of the Housing SEPP states that a consent authority must not grant development consent for the purpose of co-living housing unless it is satisfied that the proposal addresses the specified development standards pertaining to minimum sizes of private rooms, minimum lot sizes and maximum occupant numbers for private rooms.

74. As outlined in the assessment against section 69(1) in the Housing SEPP compliance tables elsewhere in this report, the proposal seeks a 77% variation of the minimum lot size development standard of 800sqm.

75. Section 69(3) of the Housing SEPP specifies that the development standards and requirements contained in subsection (1) do not apply to development for the purposes of minor alterations or additions to existing co-living housing.

76. Council Officers raised this issue in correspondence with the Applicant.

77. In response the Applicant submits the following:

    (a) the wording of this provision Section 69(3) of the Housing SEPP has not been tested in the Land and Environment Court and there is therefore no direction on how it should be interpreted. Notwithstanding, rules of statutory interpretation are such that the 'plain meaning of the words' must be read in the context of the 'purpose of the statute'.

    (b) in this case, the purpose of the statute is set out in Section 3 of the Housing SEPP and is, in simple terms, to encourage and facilitate the supply of diverse, affordable housing options;

    (c) the words in Section 69(3) state 'minor alterations or additions'. In our [the Applicant's] opinion this is meant to be read as 'minor alterations' or 'additions'. It is not meant to be read as 'minor alterations or minor additions';

    (d) additions do not need to be 'minor' to enliven section 69(3) and as such it remains our [the Applicant's] position that Section 69(1) of the Housing SEPP is not applicable to the development;

(e) for this reason, a request prepared in accordance with clause 4.6 of the Sydney LEP 2012, to justify the proposed variation of the abovementioned development standard, has not been submitted as part of the subject application.

78. Council Officers consider the Applicant's submission as follows:

(a) In addition to the purpose of the statute that the Applicant mentions in their submission, another purpose also set out in section 3 of the Housing SEPP, is to ensure new housing development provides residents with a reasonable level of amenity.

(b) The requirements specified at section 69(1) are, as its title (Standards for co-living housing) suggests, minimum standards to achieve this purpose of ensuring a reasonable level of amenity is provided for residents.

(c) If the Applicant's opinion that additions do not need to be 'minor' to enliven section 69(3), rendering the development standards at section 69(1) of the Housing SEPP inapplicable, then this would open a loophole in the provisions that would thwart this purpose.

(d) An example to illustrate this point: say the subject proposal did not involve alterations to the existing building and was for additions only. The additions in this hypothetical example are to double the number of rooms (for a total of 14 rooms), all of which are undersized and to be used by more than 2 occupants. Such a proposal would be in contravention of section 69(1)(a), (b) and (g), all of which according to the Applicant would not apply as the proposal is for additions only.

(e) The Applicant's view is too fine a parsing of the wording at section 69(3) of the Housing SEPP and which would result in a perverse outcome, which is the degradation of the amenity of the existing boarding house.

(f) The subject proposal is for alterations to the ground floor wing of the existing terrace to provide a new private room, to construct a new outbuilding and for landscaping works in the rear yard. The proposal results in a 14% increase in the number of rooms, a 97% increase in the size of the communal living area and a 76% reduction in the area of the communal open space. These changes are significant.

79. For these reasons it is considered that the development standards and requirements at section 69(1) of the Housing SEPP apply in this instance.

Consultation

Internal Referrals

80. The application was discussed with the City's Specialist Surveyor, Heritage and Urban Design Specialist and Waste Management Specialist. The advice provided in referrals from these specialist staff has informed the assessment of the application.

Advertising and Notification

81. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 28 days between 2 March 2023 and 31 March 2023. A total of 209 properties were notified and 5 submissions were received.

82. The submissions raised the following issues:

    (a) **Issue:** The proposed new outbuilding will be built to the boundary with the neighbouring property adjacent to the northeast damaging the gardens and landscaping contained in that property.

    Response: The proposed development is recommended for refusal and as such will not be constructed.

    (b) **Issue:** The proposed new outbuilding is taller than the existing fence on the boundary with the property adjacent to the northeast and which will block the last remaining local views from this property as well as breezes.

    Response: The proposed development complies with the LEP height control of 12m. However, the proposed development is recommended for refusal. If refused, it will not have any of the adverse impacts anticipated in this objection.

    (c) **Issue:** The area that the proposed new outbuilding is to be built upon should be retained as garden / green / outdoor living space to avoid more hard surfaces that reflect heat and for the benefit of the current occupants.

    Response: As detailed in the assessment against provision 4.1.3.4 in the DCP compliance tables in this report, 15% of the site area is to be provided as deep soil. The existing property has deep soil equal to approximately 28% (50sqm) of site area. The proposed development provides a deep soil zone equal to approximately 11% (20.26sqm) of site area and does not satisfy the requirements of this control.

    (d) **Issue:** Objection is raised to the WC in the proposed new outbuilding which will be next to the entertaining area of the property adjacent to the northeast. This new WC will lead to unpleasant noises and odours.

    Response: The proposed development is recommended for refusal and as such will not be constructed and will not have any of the adverse impacts anticipated in this objection.

    (e) **Issue:** The number of occupants to be housed in a single terrace is ridiculous and should be illegal.

    Response: The Housing SEPP and the City's DCP regulate the maximum number of persons that may reside on the property.

(f) **Issue:** The location of the existing common room in the rear wing of the terrace is much better in that it is better contained and provides setbacks to side and rear boundaries. The proposed location of the communal living room and open space to accommodate lodgers and their guests adjacent to the backyards of the neighbouring properties will create a lot of activity in a space that is relatively quiet at present. This will adversely impact the amenity of the neighbouring properties and reduce their value.

Response: The proposed development is recommended for refusal and as such will not be constructed and will not have any of the adverse impacts anticipated in this objection.

(g) **Issue:** As the proposed new communal living room is separate from the house and some distance from the back door, it will need a considerable amount of outdoor lighting for safety. Many of the bedroom windows in the dwelling adjacent to the northeast face that direction and would be affected by the light pollution from outdoor lighting.

Response: The proposed development is recommended for refusal and as such will not be constructed and will not have any of the adverse impacts anticipated in this objection.

(h) **Issue:** The proposed new outbuilding will abut the existing commercial building at 21 Ross Street creating a narrow gap that will gather rubbish and insects and will cause problems with dampness. The new outbuilding will prevent maintenance access to the external wall of the building at 21 Ross Street. It is requested that the proposed new outbuilding be required to be setback 1m from the adjacent wall of the building at 21 Ross Street.

Response: The proposed development is recommended for refusal and as such will not be constructed and will not have any of the adverse impacts anticipated in this objection.

(i) **Issue:** The proposal appears to involve some excavation adjacent to the existing commercial building at 21 Ross Street to allow for the construction of the new outbuilding. This has the potential to undermine the structural integrity of the existing building at 21 Ross Street. It is requested that Council require that no excavation is undertaken and that a Dilapidation Report for the property at 21 Ross Street must be prepared prior to the commencement of works.

Response: The proposed development is recommended for refusal and as such will not be constructed and will not have any of the adverse impacts anticipated in this objection.

(j) **Issue:** The proposal does not provide an adequate communal living area. The Housing SEPP requires that the proposed development provides at least 34sqm of communal living area. The proposed development does not comply with this requirement.

Response: Refer to the assessment against the size requirements for communal living rooms contained in section 68(2)(c) of the Housing SEPP and provision 4.4.1.4 of the Sydney DCP 2012 elsewhere in this report.

(k) **Issue:** There are discrepancies in the documentation submitted as part of the subject application. The number of boarding rooms (8 rooms) specified in the submitted Statement of Environmental Effects (SEE) is inconsistent with the number specified in the submitted Plan of Management (9 rooms).

Response: These discrepancies are noted in this assessment.

(l) **Issue:** The proposal does not provide adequate common open space. The Housing SEPP requires that the proposed development provides at least 20% of the site area as communal open space. The proposed development does not comply with this requirement.

Response: Refer to the assessment against the size requirements for communal open space contained in section 68(2)(d) of the Housing SEPP and provision 4.4.1.4 of the Sydney DCP 2012 elsewhere in this report.

(m) **Issue:** The submitted shadow diagrams do not provide suitable information for the assessment of compliance with the relevant solar access requirements of the Sydney DCP 2012 or the Housing SEPP.

Response: Refer to the assessment against the overshadowing requirements contained in provision 4.1.3.1 of the Sydney DCP 2012 elsewhere in this report.

(n) **Issue:** The subject application does not provide tree planting to replace the extensive tree canopy that existed on the site prior to 2021. This loss of tree canopy has a detrimental impact upon the landscape character and environmental quality of the area.

Response: Refer to the assessment against tree canopy cover requirements contained in provision 3.5 of the Sydney DCP 2012 elsewhere in this report.

(o) **Issue:** It is requested that the proposed new outbuilding be assessed as a new development application and that suitable setbacks are required including side setbacks of at least 900mm and a 1m rear setback to avoid damage to the existing building at 21 Ross Street.

Response: The subject proposal has been lodged as a new Development Application and has been assessed as such. Refer to the assessment against setback requirements contained in provision 4.1.2 of the Sydney DCP 2012 elsewhere in this report.

(p) **Issue:** The proposed new outbuilding is much larger than the shed that previously existed in the site's rear yard prior to it being demolished without approval. Subsequently the increased building footprint of the new outbuilding will reduce areas of soft landscaping and the quality of the local environment.

Response: Refer to the assessment against landscape and deep soil requirements contained in provision 4.1.3.3 and 4.1.3.4 of the Sydney DCP 2012 elsewhere in this report.

(q) **Issue:** The submitted survey identifies the sliver of land adjacent to the southwest of the subject site. This sliver of land is not owned by the Applicant. No development is proposed on the sliver. The submitted survey must be considered in the assessment of the subject application.

Response: The submitted survey has been considered in this assessment.

(r) **Issue:** The shadow diagrams are inaccurate and understate the overshadowing impacts to the adjacent property to the southwest at 177 St Johns Road. The proposal will reduce the amount of sun to the rear yard of the neighbouring property at 177 St Johns Road and is unacceptable.

Response: Refer to the assessment against the overshadowing requirements contained in provision 4.1.3.1 of the Sydney DCP 2012 elsewhere in this report.

(s) **Issue:** The proposal is purposefully unclear as to whether the development is for a boarding house or co-living housing. If it is a boarding house, it must be maintained as a boarding house in perpetuity and must be managed by a registered housing provider.

Response: As discussed in the History section of this report above, changes to the Standard Instrument Local Environmental Plan [which affect Standard Instrument LEP's such as the Sydney LEP 2012 (the LEP)] associated with the commencement of the SEPP (Housing) 2021, came into effect on 26 November 2021. This included changes to the definition of a boarding house and to introduce a new housing type known as co-living housing.

Under these new definitions a boarding house must be operated by the NSW Land and Housing Corporation or a registered community housing provider. For this reason, the development proposed under the subject application is best characterised as co-living housing and which is akin to a boarding house as defined before the SEPP (Housing) 2021 and associated policy changes took effect.

(t) **Issue:** The subject site is on a lot with an area of less than 200sqm. The SEE states that minimum lot size requirements do not apply as the application pertains to an existing boarding house. It is not clear whether Council has ever ruled on this matter as a boarding house was approved on the site in the past.

Response: Refer to the assessment against the minimum lot size requirements contained in section 69(1)(b) of the Housing SEPP elsewhere in this report.

(u) **Issue:** As there is no community housing provider managing the property the communal living room could easily be used as an additional apartment in future.

Response: The proposed development is recommended for refusal and as such will not be constructed and will not have any of the adverse impacts anticipated in this objection.

(v) **Issue:** The level of the property adjacent to the southwest at 177 St Johns Road is 400mm below that of the subject site. The proposed new outbuilding will be approximately 3.5m above the level of the rear yard at no. 177 and will extend 7m along the side boundary. This addition will hem the rear yard of the property at no. 177 on all three sides and will have unacceptable overbearing impacts.

Response: The proposed development is recommended for refusal and as such will not be constructed and will not have any of the adverse impacts anticipated in this objection.

(w) **Issue:** The proposed new outbuilding is located on top of a large existing sewer pipe.

Response: Noted.

(x) **Issue:** The submitted stormwater and sewerage diagram appear to illustrate services encroaching upon the sliver land. The stormwater plan appears to contradict itself as drainage falls to the pit in the backyard and also towards the front of the site to drain to the kerb outlets in St Johns Road.

Response: The proposed stormwater services appear to encroach upon the sliver land. The ownership status of the sliver is unknown. Were the application to be approved owner's consent would be required for any works on the sliver land prior to the application being approved.

(y) **Issue:** The current laundry is in the rear wing of the terrace and has a door that opens to the northeastern side passageway. The common laundry will be very busy as it may be used by all occupants. There is no clothesline at present, and none proposed so all laundry will be dried in machines. The laundry opens to the living area. The only ventilation will be through a roof ventilator unless it ventilates through the boundary wall, and which is not indicated on the submitted plans.

Response: Noted.

(z) **Issue:** The Panel is referred to the work of Rachel and Stephen Kaplan, professors of psychology at the University of Michigan. They are known for their research on the effect of the environment and nature on people's relationships and health. This research is being put into practice by designers, architects and planners to create psychologically healthy buildings and cities.

Response: Noted.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

83. Were the application being recommended for approval, then consideration would be given to whether the development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.

Contribution under clause 7.13 of the Sydney Local Environmental Plan 2012

84. Were the application being recommended for approval, then consideration would be given to whether the development is subject to an affordable housing contribution calculated in accordance with clause 7.13 of the Sydney LEP 2012.

Relevant Legislation

85. Environmental Planning and Assessment Act 1979.

86. Heritage Act 1977.

Conclusion

87. The proposal is for alterations and additions to an existing boarding house to convert an existing communal living room to a private co-living housing room and construction of a new outbuilding containing a new communal living room, kitchen, laundry and WC.

88. The development proposed under the subject development application (DA) contravenes several development standards by more than 10% and as such the subject DA is required to be determined by the Local Planning Panel

89. The subject proposal seeks approval of variations to non-discretionary development standards contained at Housing SEPP section 68 and which pertain to:

    (a) communal living areas (40% under provision);

    (b) communal open space (65% under provision); and

    (c) carparking (100% under provision).

90. The subject proposal seeks approval of a 77% variation to the minimum lot size development standard contained at Housing SEPP section 69.

91. A written request seeking to justify the contravention of the development standards listed above has not been submitted as part of the subject application. Subsequently and in accordance with LEP clause 4.6 development consent must not be granted to the subject application.

92. The subject proposal does not comply with controls contained in the Sydney DCP 2012 (the DCP) pertaining to provision of bicycle parking, bulky waste storage areas, solar access diagrams, deep soil, common open space, private open space and Plan of Management requirements.

93. The proposal is recommended for refusal.

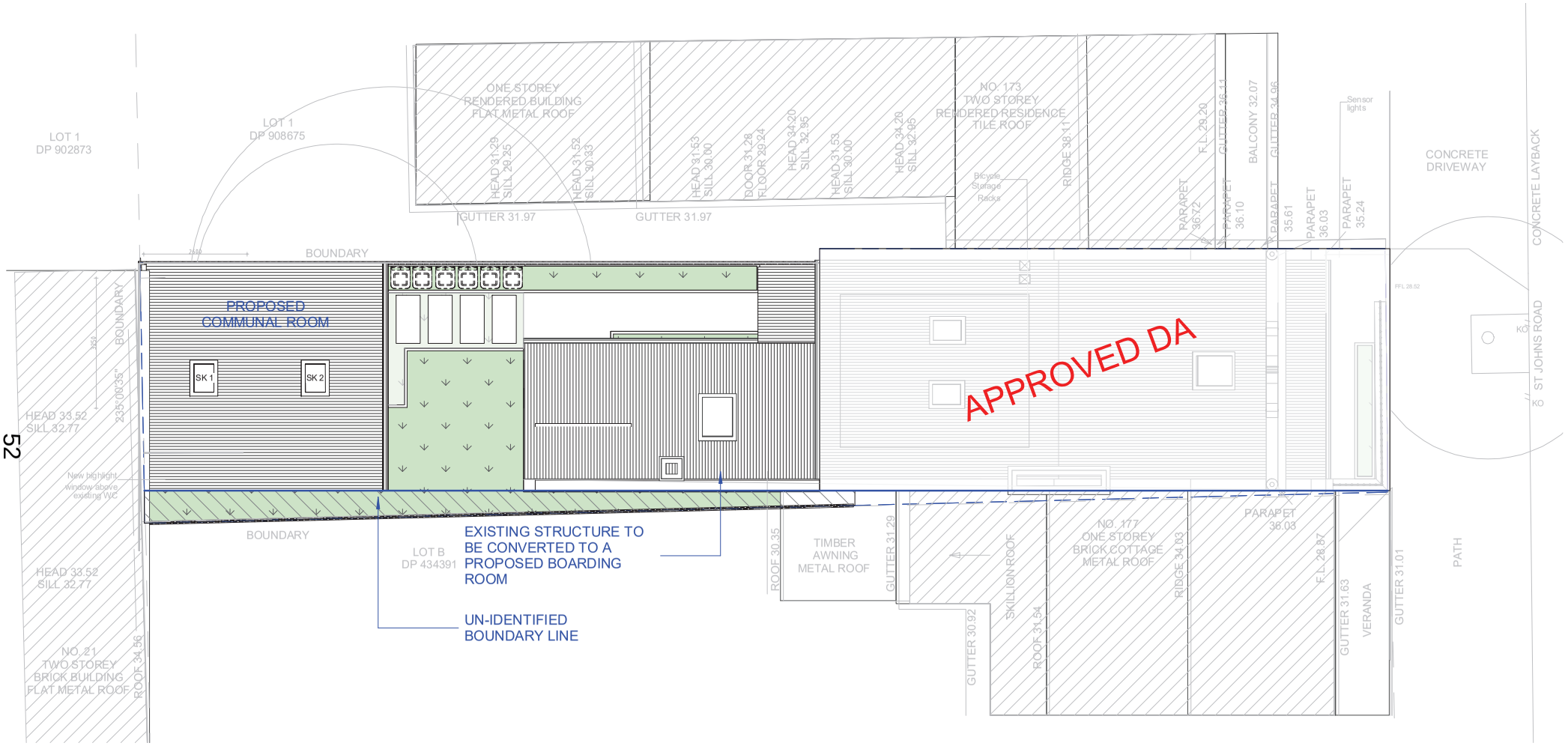
ANDREW THOMAS

Executive Manager Planning and Development

Ben Chamie, Area Planning Coordinator

Attachment A

Selected Drawings



1 Site Plan

1 : 100

ASTLEY HOMES

ACCREDITED BUILDING DESIGNER

BDAA Accreditation Number: 6614
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REVISIONS			
ISSUE	DATE	DESCRIPTION	BY
1	07.11.2022	ISSUED FOR DEVELOPMENT APPLICATION	K.H
2	10.07.2023	ISSUED FOR DEVELOPMENT APPLICATION	K.H

PROJECT TITLE
Proposed Alts. & Adds.
PROJECT ADDRESS
175 Saint Johns Road, Glebe NSW

NOTES
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DA 01
REVISION NO.
2
DATE OF ISSUE
10.07.2023
DRAWING SCALE
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A3
TRUE NORTH

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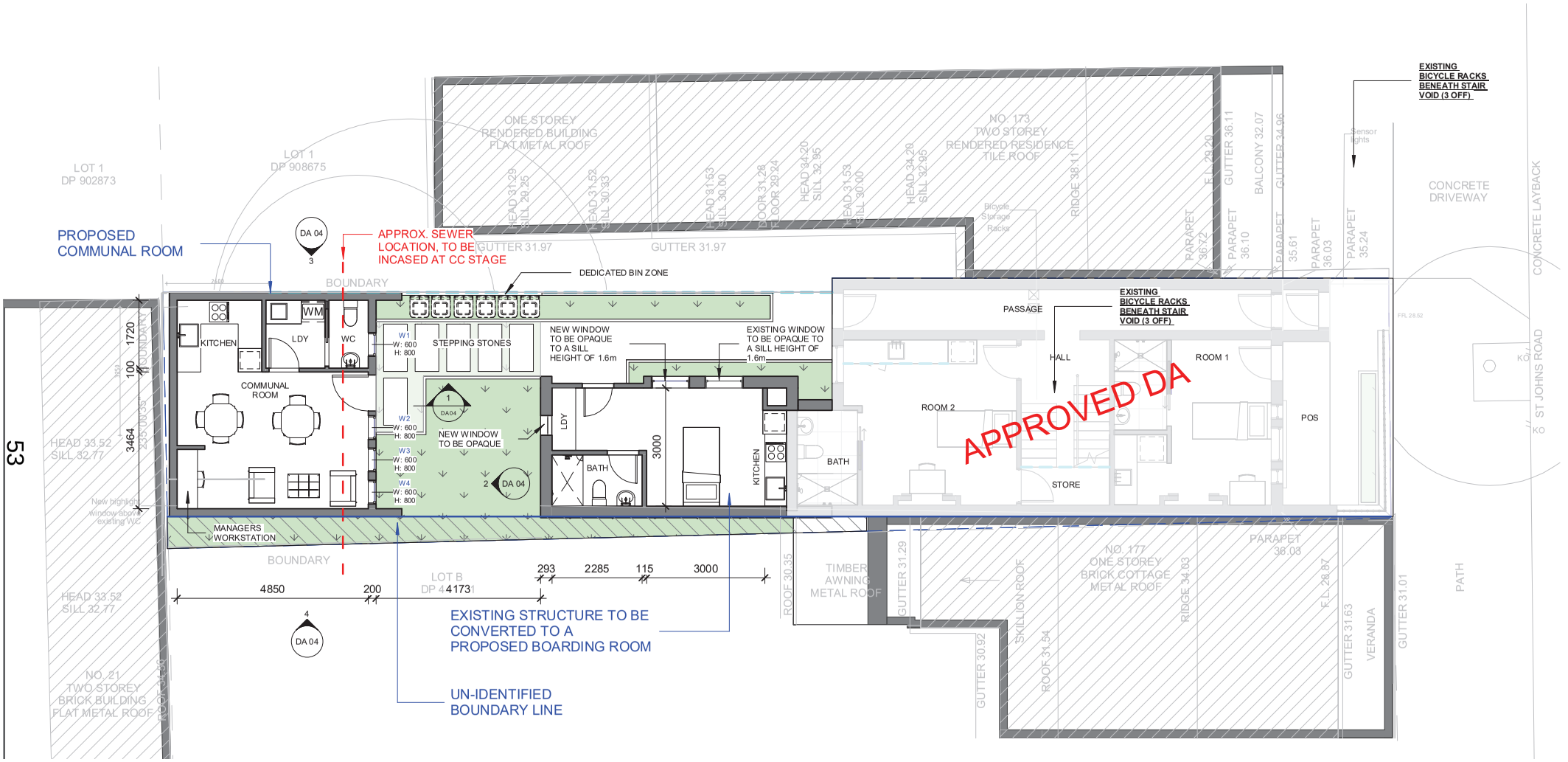

1 Ground Floor

1 : 100

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DA 02
REVISION NO.
2
DATE OF ISSUE
10.07.2023
DRAWING SCALE
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SHEET SIZE
A3
TRUE NORTH

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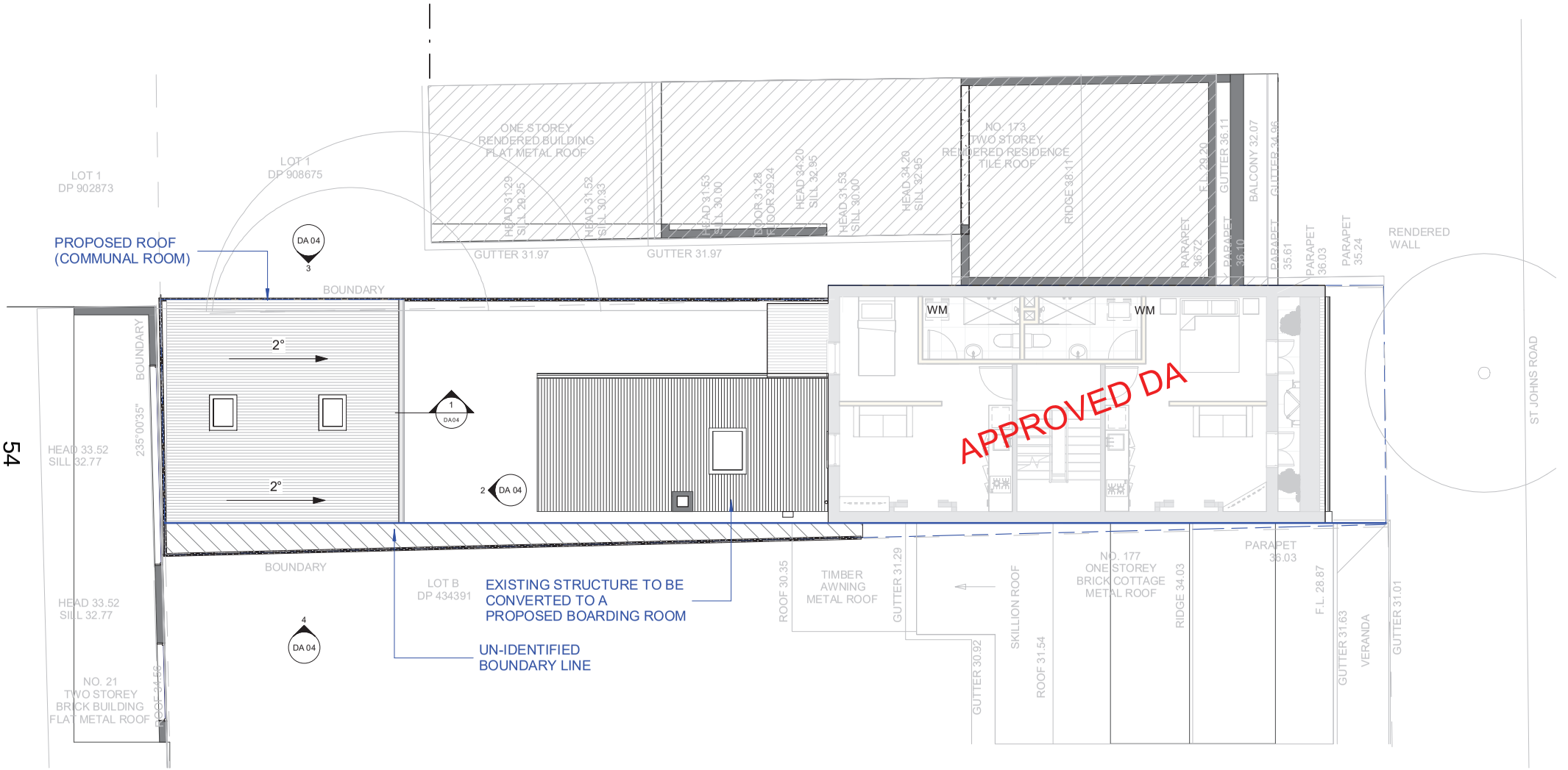

1 Level 1

1 : 100

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Proposed Roof Plan
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DA 03
REVISION NO.
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DRAWING SCALE
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SHEET SIZE
A3
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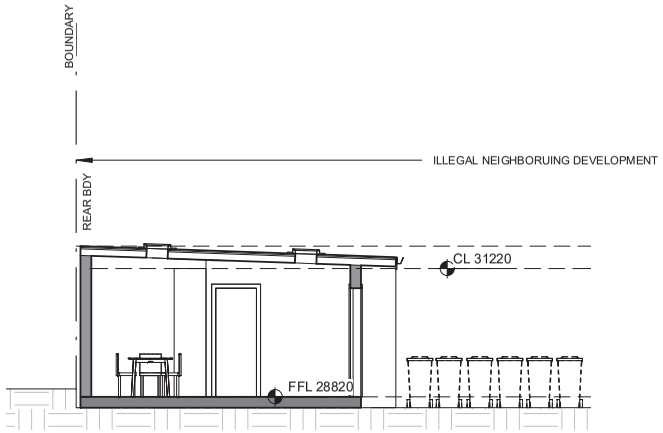

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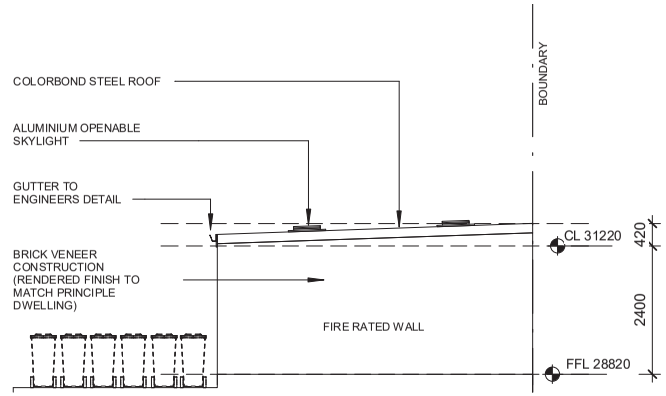

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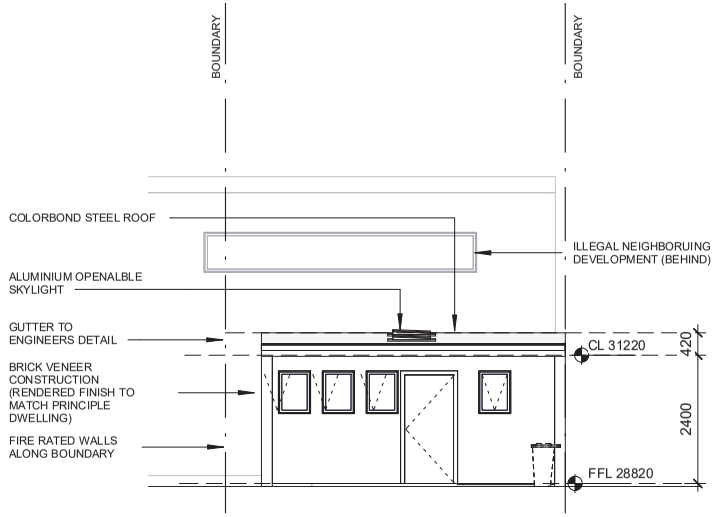

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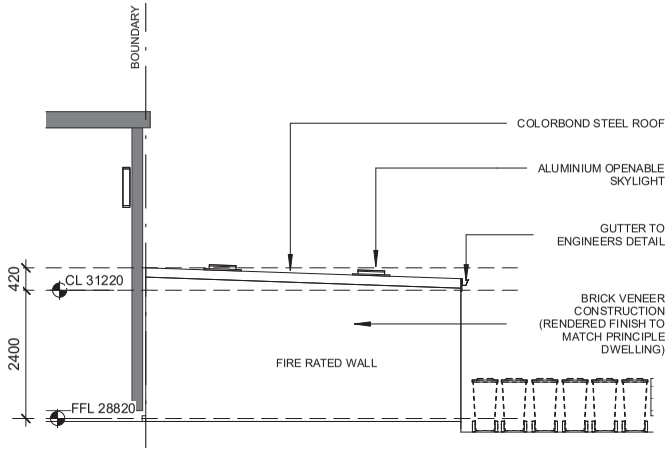

4 South Elevation
1 : 100

BUILDING ELEMENT	FINISH	COLOUR	SAMPLE
Proposed Outbuilding External Walls	Bagged brick to match existing	Regency-White Weathershield	
Proposed Downpipes and Gutters	Colorbond Finish	Dulux Monument	
New Timber Framed Windows / Doors	Paint Finish	Dulux Lime White Gloss	
Roofing	Colorbond Finish	Dulux Monument	
Skylights	Aluminium	Dulux Monument	

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SHEET SIZE
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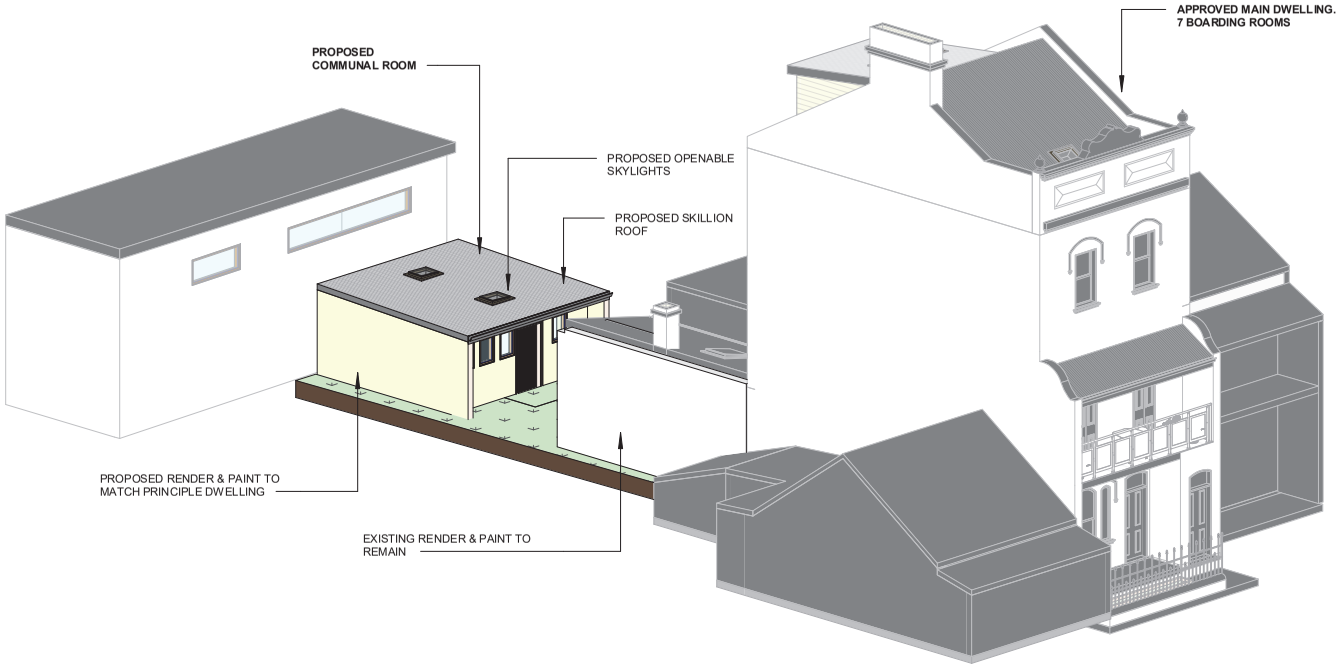

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DRAWING NO.
DA 06
REVISION NO.
2
DATE OF ISSUE
10.07.2023
DRAWING SCALE
TRUE NORTH
SHEET SIZE
A3

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Item 7.

Development Application: 107-109 Darlinghurst Road, Potts Point - D/2022/1107

File No.: D/2022/1107

Summary

Date of Submission:	27 October 2022
Applicant:	James Burns
Architect/Designer:	James Burns Architect
Owner:	Raben Footwear Pty Ltd
Planning Consultant:	Navon Planning
Heritage Consultant:	Heritage 21
Cost of Works:	$4,641,628.00
Zoning:	E1 - Local Centre The mixed use development is permissible with consent in the zone.
Proposal Summary:	Consent is sought for alterations and additions to an existing mixed use building above Kings Cross Station, including construction of two additional levels. The application principally proposes extension and upgrade of an existing backpacker hostel accommodation, in addition to changes to several small-scale pocket retail tenancies within the street level arcade entrance to Kings Cross Station. The backpacker accommodation extends across 7 levels of the building as existing, including 3 basement levels. The DA proposes to add 2 additional levels atop of the existing building to extend the backpacker accommodation. Although additional floorspace is proposed, the proposed occupancy of the backpacker accommodation is reduced from a maximum of 94 guests as existing, to 91 guests proposed and a manager's room. This is due to upgrading of existing facilities and amenities, including the creation of

an enlarged lightwell void to improve amenity of the backpackers' rooms.

Proposed changes to the retail arcade entrance to Kings Cross Station involve a new backpacker hostel reception/lift lobby, with the creation of 2 new pocket retail tenancies either side. An existing coffee cart tenancy within the arcade adjacent to Darlinghurst Road is also to be retained.

The proposed development is in breach of the maximum height of buildings and floor space ratio development standards applying to the site, pursuant to Clause 4.3 and Clause 4.4 of the Sydney Local Environmental Plan 2012. The applicant has submitted Clause 4.6 variation requests to seek approval to vary these development standards, however these requests are not supported.

The application is reported to the Local Planning Panel for determination as it represents a significant departure from the floor space ratio development standards applying to the site. Council officers have calculated that the proposed development seeks approval for a 74% variation of the floor space ratio development standard. The application therefore sits outside Council's delegation and is required to be determined by the Local Planning Panel in accordance with Schedule 3 of the Local Planning Panels Direction.

The application is recommended for refusal as it represents a significant departure from the floor space ratio development standard, adversely impacts upon the residential amenity of neighbouring apartments and fails to exhibit design excellence.

Summary Recommendation: This proposal is recommended for refusal.

Development Controls:

(i) Sydney Local Environmental Plan 2012

(ii) Sydney Development Control Plan 2012

(iii) Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021

(iv) State Environmental Planning Policy (Transport and Infrastructure) 2021

Attachments:

A. Selected Drawings

B. Clause 4.6 Variation Request - Floor Space Ratio

C. Clause 4.6 Variation Request - Height

Recommendation

It is resolved that consent be refused for Development Application Number D/2022/1107 for the reasons outlined below.

Reasons for Recommendation

The application is recommended for refusal for the following reasons:

(A) The proposal is in breach of the floor space ratio development standard applying to the site pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012 and the application fails to satisfy the provisions of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 to justify contravention of the standard.

(B) The Clause 4.6 variation request is not supported as the proposal is inconsistent with the Floor Space Ratio development standard objectives of Clause 4.4 of the Sydney Local Environmental Plan 2012. The proposed variation of the development standard creates excessively bulk and massing, which will adversely impact upon the character of the locality, and adversely impacts upon the residential amenity of the locality by way of unacceptable overshadowing to adjoining properties.

(C) The applicant's written request to vary the Floor Space Ratio development standard fails to address the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 as it does not accurately identify or address the Floor Space Ratio controls applying to the site or the zoning of the land.

(D) The proposal is in breach of the height of buildings development standard applying to the site pursuant to Clause 4.3 of the Sydney Local Environmental Plan 2012 and the application fails to satisfy the provisions of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 to justify contravention of the standard.

(E) The applicant's written request to vary the Height of Buildings development standard fails to address the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012 as it does not accurately identify or address the zoning of the land.

(F) The proposed development causes unacceptable overshadowing of neighbouring residential properties, resulting in a non-compliance with the solar access provisions provided by Section 4.2.3.1 of the Sydney Development Control Plan 2012.

(G) The proposed development is in breach of the 4-storey street frontage height control applying to the site, pursuant to Section 4.2.1 of the Sydney Development Control Plan 2012.

(H) The design of the proposed development lacks cohesion, appears incongruous within the streetscape and fails to exhibit detailing appropriate to the building type and location, pursuant to the design excellence provisions established by Clause 6.21C(2)(a) the Sydney Local Environmental Plan 2012.

(I) The design of the proposed development, which exceeds the maximum height and floor space ratio standards, is of poor quality and fails to achieve the objectives of Division 4 Design Excellence of the Sydney Local Environmental Plan 2012, which is to deliver the highest standard of architectural, urban and landscape design.

(J) The development is considered unsatisfactory when assessed against the considerations contained in 6.21C (2) of the Sydney Local Environmental Plan 2012, particularly as it:

(i) does not demonstrate that a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved;

(ii) does not demonstrate that the form and external appearance of the proposed development will improve the quality and amenity of the public domain; and

(iii) will result in unacceptable overshadowing impacts to neighbouring properties.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 and Lot 5 in Deposited Plan 802224, and is commonly known as 107-109 Darlinghurst Road, Potts Point. It is irregular in shape with area of approximately 259 square metres.

2. Lot 1 has a size of 239.1 square metres, a frontage of 9.25 metres to Darlinghurst Road and a rear aspect of 4.6 metres to Earl Place. Lot 1 is located on the north-western side of Darlinghurst Road and currently accommodates a 7-storey building which includes 3 storeys of basement. The existing building was previously used as backpacker accommodation, however has been vacant since the onset of the COVID-19 pandemic.

3. Lot 5 has a size of 19.1 square metres and contains fire escape stairs for the building.

4. The site is subdivided in stratum with Lot 2, Lot 3 and Lot 4 of Deposited Plan 802224 forming the Transport Asset Holding of NSW and known as 109A Darlinghurst Road, Potts Point. Lot 2 in Deposited Plan 802224 contains the entrance way arcade to Kings Cross Station, at the ground floor / part of the first-floor void area. These lot holdings are situated within the same site boundaries but are unaffected by the proposed development and the application does not propose any works or changes to these areas.

5. The site is burdened by a number of easements, including rights of footway through the site to Kings Cross Station and fire escape access for users to Earl Street.

6. Adjoining to the north is 99-105 Darlinghurst Road, which is a five-storey mixed use residential building with retail uses at ground floor.

7. To the east is the row of 3-storey properties on the opposite eastern side of Darlinghurst Road, primarily containing retail/entertainment uses at ground level and shop-top housing or commercial space above.

8. To the south is 113 Darlinghurst Road, which is a twenty-storey residential flat building known as 'Omnia' (or 'Crest Apartments'), with retail uses on the ground level.

9. To the west is 214-220 Victoria Street, a twelve-storey residential flat building with the Victoria Street station access to Kings Cross Station at ground level.

10. The surrounding area is generally characterised by a mixture of land uses, primarily retail at ground floor and generally residential or commercial uses on upper levels.

11. The site is not identified as a heritage item but is located within the Potts Point heritage conservation area (Map reference C51). The site is identified as a detracting building within the heritage conservation area.

12. The site is located within the Kings Cross locality and is not identified as being subject to flooding.

13. Site visits were carried out on 23 January 2023 and 10 August 2023.

14. Photos of the site and its surroundings are provided below.

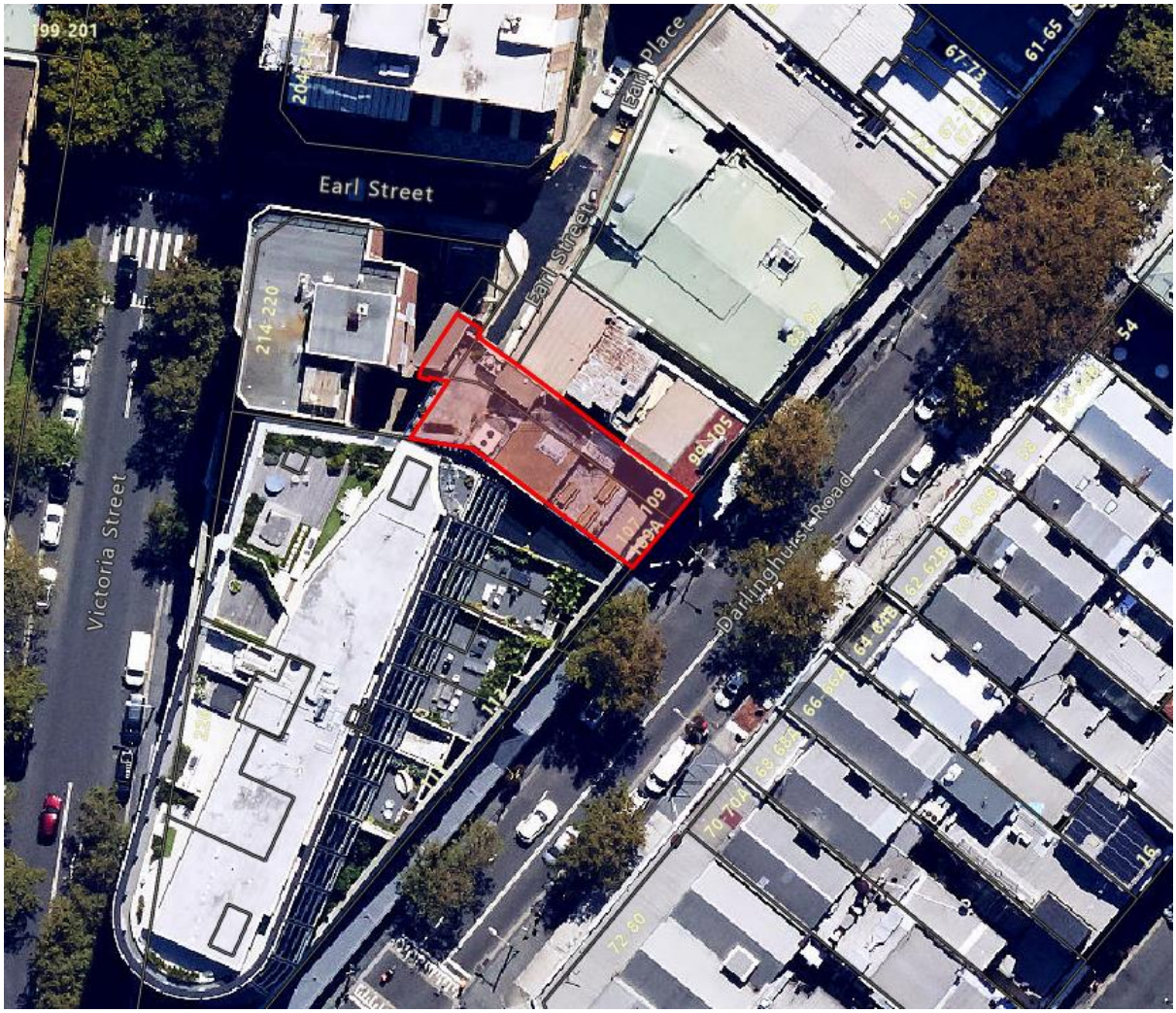


Figure 1: Aerial view of the site (shown shaded in red) and surroundings



Figure 2: Front of the site viewed from Darlinghurst Road, looking west



Figure 3: Looking south-west along Darlinghurst Road



Figure 4: Looking north along Darlinghurst Road



Figure 5: Rear of the site viewed from Earl Street, looking south



Figure 6: Existing basement level 2



Figure 7: Existing basement level 1



Figure 8: Existing fire stair egress from basement levels to Earl Street



Figure 9: Ground level retail arcade and level 1 void looking towards Kings Cross Station entrance



Figure 10: Ground level retail arcade and level 1 void looking towards Darlinghurst Road



Figure 11: Level 1 walkway of backpacker accommodation overlooking retail arcade entrance to Kings Cross Station



Figure 12: Existing backpackers' room with outlook to retail arcade entrance to Kings Cross Station



Figure 13: Existing backpackers' room at front of the building with outlook to Darlinghurst Road



Figure 14: Existing backpackers' room at rear of the building with outlook to Earl Street



Figure 15: Eastern side of existing rooftop terrace at the front of the building looking south



Figure 16: Western side of existing rooftop terrace at the rear of the building looking west

History Relevant to the Development Application

Pre-Development Application Advice (PDA/2021/240)

15. Pre-development application advice was sought by the applicant on 18 August 2021 in relation to proposed renovation and upgrading of the existing mixed use building, including a new two-storey addition, and potential suitability of the site for a range of possible uses.

16. The request for advice listed the following possible uses of the site:

    (a) backpacker accommodation (as per existing use);

    (b) boarding house;

    (c) hotel;

    (d) student accommodation (serviced apartments);

    (e) commercial premises (office premises); and

    (f) Night club (at basement levels).

17. In response, Council issued advice on 28 September 2021 which confirmed that the proposal would be in breach of the principal height of buildings and floor space ratio development standards applying to the site.

18. Council's advice highlighted that the exceedance of the floor space ratio control represented a significant departure from the development standard and would unlikely be supported.

19. It was further advised that any future change of use or new use of the site would dictate the design and layout of the proposed built form and that as no single use was specified, it was difficult at the pre-development application stage to ascertain or comment upon how this would affect the built form as proposed.

20. Notwithstanding the above, the applicant was advised to consider how the provisions of the Building Code of Australia (BCA) may affect the planning and design of the building depending upon on the nominated use.

21. It was also advised that any proposal for backpacker accommodation, such as proposed under the current application, would need to demonstrate adherence with Section 4.4.8.1 and Section 4.4.8.4 of the Sydney Development Control Plan 2012, particularly in relation to the provision of communal recreation areas, kitchens, dining areas, bathrooms, laundry facilities and staff rooms.

Amendments

22. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information was sent to the applicant in order to facilitate accurate assessment of the proposed development and its associated impacts.

23. The applicant responded to Council's request and provided additional information in relation to the following:

(a) Overshadowing

Shadow diagrams and view from the sun diagrams provided at hourly intervals between 9am and 3pm on 21 June to facilitate assessment of overshadowing impacts upon neighbouring properties.

(b) Building Height

A three-dimensional height plane diagram provided to demonstrate which parts of the proposed rooftop areas exceed the Sydney Local Environmental Plan 2012 height control and the degree of non-compliance.

(c) Visual Impact Assessment

A three-dimensional photomontage view of the proposed development provided looking north-east from Darlinghurst Road to illustrate visual impact of the proposed rooftop additions within the streetscape.

(d) Structural Report

A structural report provided and prepared by a qualified structural engineer to confirm that the base building can accommodate the additional loads proposed by upper-level additions.

24. Following detailed review and consideration of the additional information provided, Council officers wrote to the applicant to advise that the proposed development was not be supported in its current form.

25. The applicant was advised that this was principally based on the significant exceedance of the floor space ratio control applying to the site and the developments impacts on adjoining properties. It was further advised that the proposed design was considered unsatisfactory as it failed to satisfy the design excellence provisions of the Sydney Local Environmental Plan 2012.

26. Given the above the applicant was informed that a the proposal would need to be subject of a significant redesign providing for a more modest development for the application to be supported.

27. The applicant submitted amended drawings which sought to address some of the issues raised by Council.

28. Council officers provided general feedback on the amended drawings; however it was advised that the principal threshold issue of the proposed development's significant exceedance of the floor space ratio control remained and that the amendments failed to adequately demonstrate design excellence.

29. The amended drawings therefore have not been formally accepted by Council.

Proposed Development

30. The application seeks consent for alterations and additions to the existing mixed-use building above Kings Cross Station, including construction of two additional levels.

31. The application principally proposes extension and upgrade of the existing backpacker hostel accommodation, in addition to changes to several small-scale pocket retail tenancies within the street level arcade entrance to Kings Cross Station.

32. The proposed scope of works consists of the following:

Extension and Upgrade of Backpacker Accommodation

(a) construction of a two-storey addition atop of the existing building;

(b) new covered roof terrace facing Earl Street;

(c) new protruding balconies and framing surround off upper-level additions to Darlinghurst Road;

(d) upgrade of backpacker facilities across all levels, including new sleeping rooms, communal lounge/dining/kitchen areas, manager's office and sleeping room, bathrooms and amenities - backpacker occupancy reduced from 94 guests to 91 guests;

(e) changes to basement areas to provide reconfigured lounge/tv room and games room, staff room, laundry room, waste/storage areas, parking for 11 bicycles, bathrooms and amenities;

(f) creation of an enlarged lightwell void from second floor extending up to roof level to improve amenity to sleeping rooms, communal areas and circulation spaces; and

(g) new stairs and lift access;

Changes to Kings Cross Station Entrance Arcade

(h) new backpacker hostel reception area and lift lobby directly accessible from arcade;

(i) two new pocket retail tenancies either side of backpacker hostel reception; and

(j) retention of existing coffee cart tenancy within the arcade adjacent to Darlinghurst Road**;** and

Darlinghurst Road Frontage

(k) changes to Darlinghurst Road fa**c**ade including changes to windows and openings, new brickwork and fa**c**ade remediation works**.**

33. Plan, elevation and section drawing extracts of the proposed development are provided below.

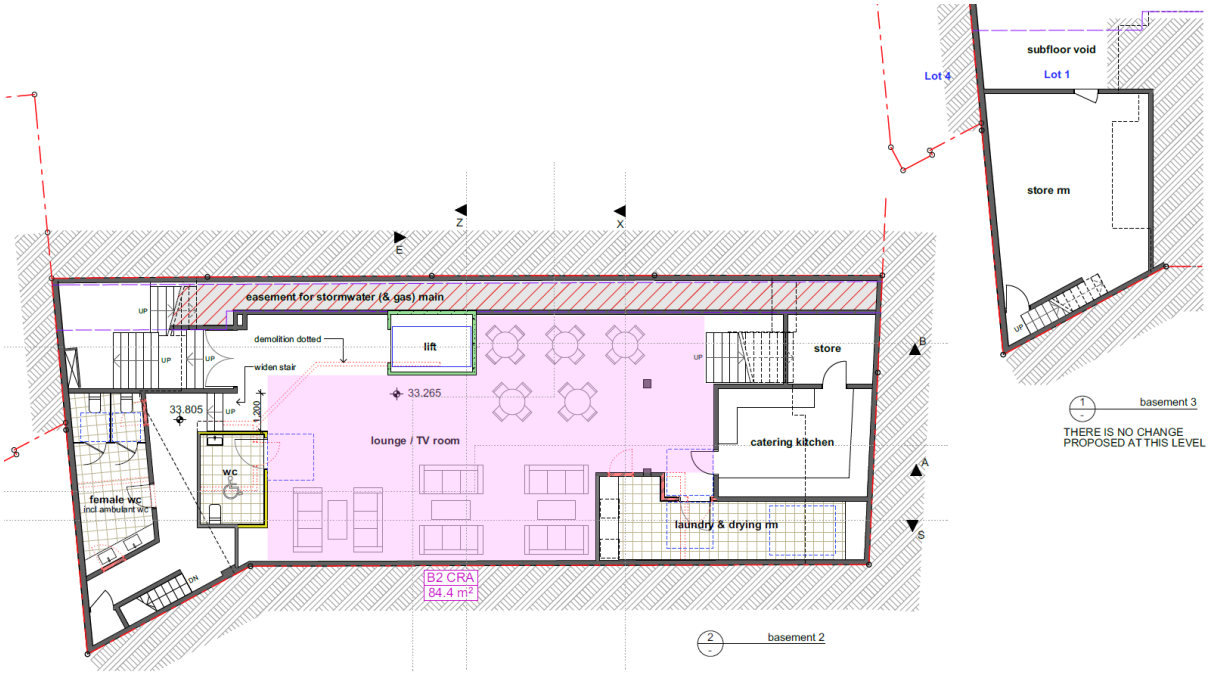


Figure 17: Proposed basement level 2 and basement level 3

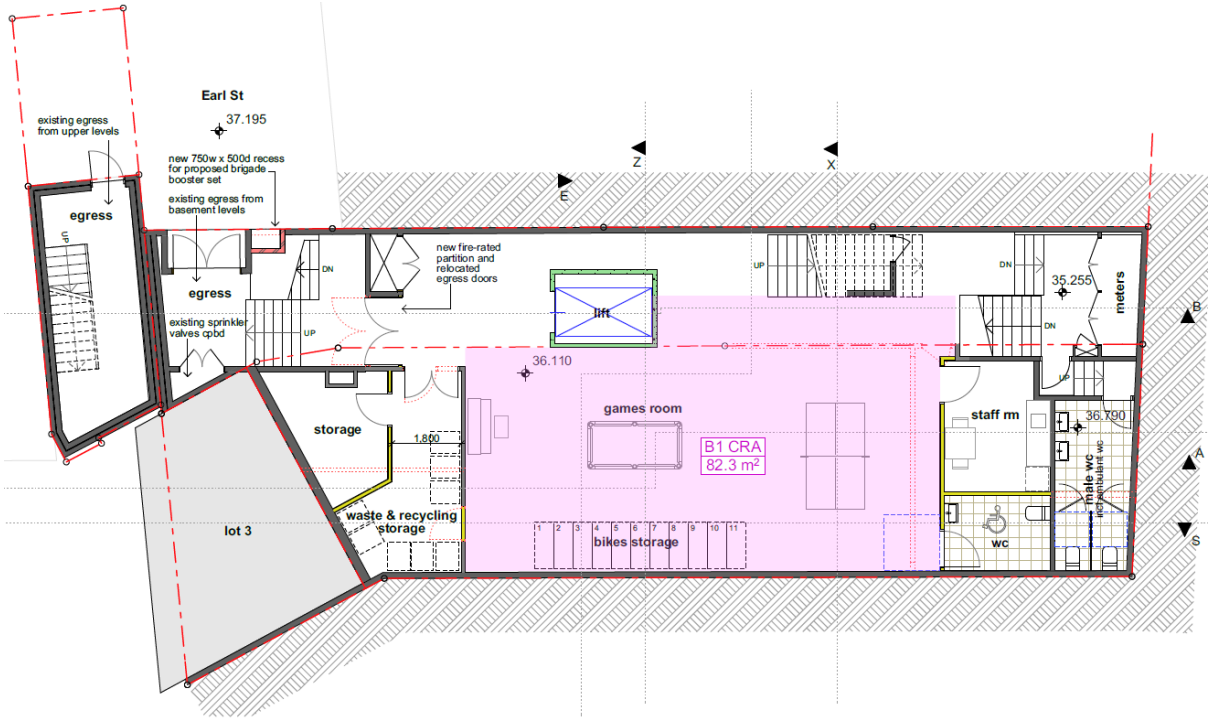


Figure 18: Proposed basement level 1

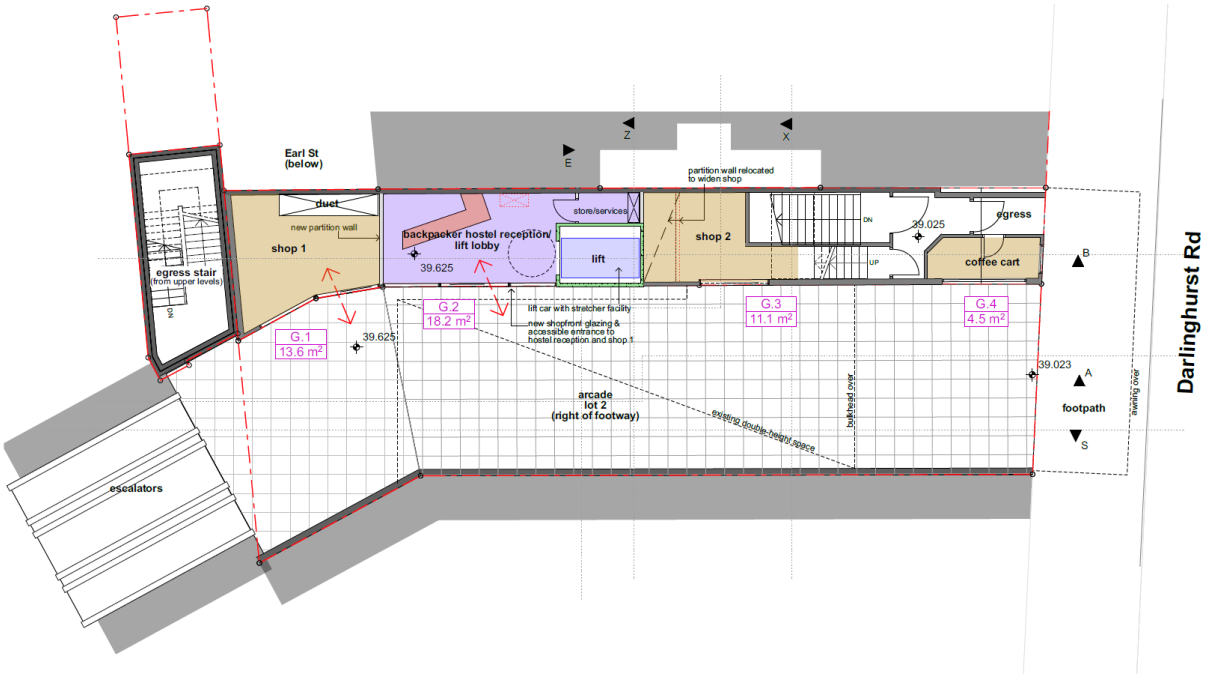


Figure 19: Proposed ground arcade level

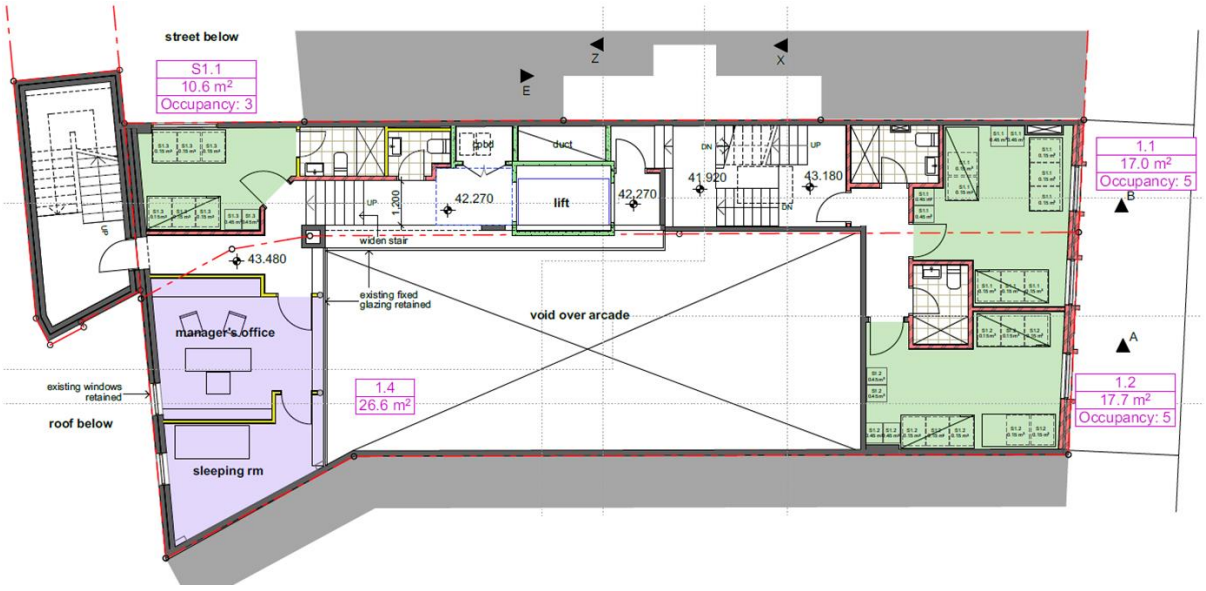


Figure 20: Proposed first floor

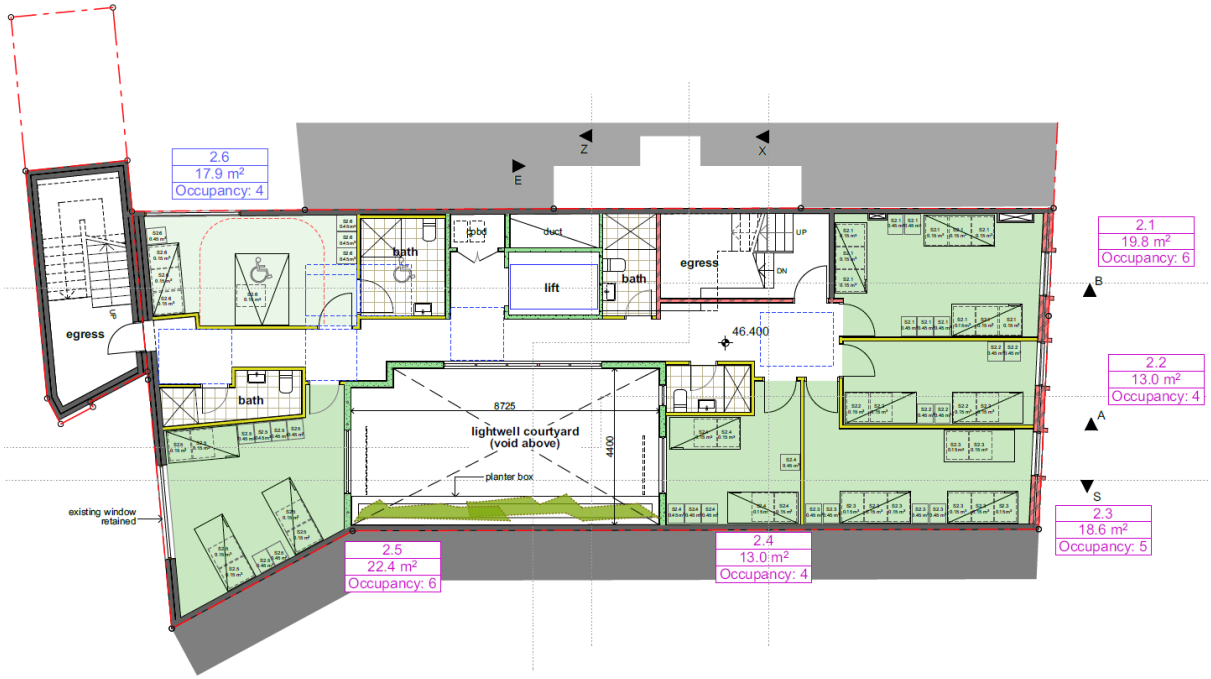


Figure 21: Proposed second floor

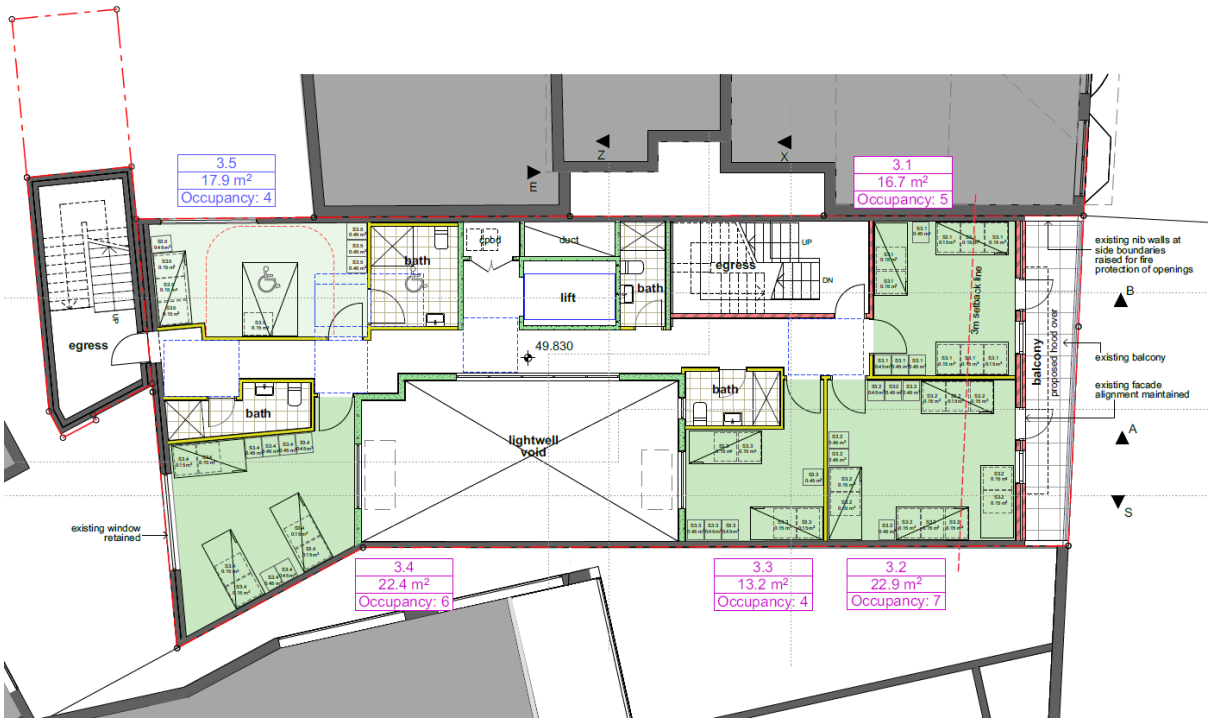


Figure 22: Proposed third floor

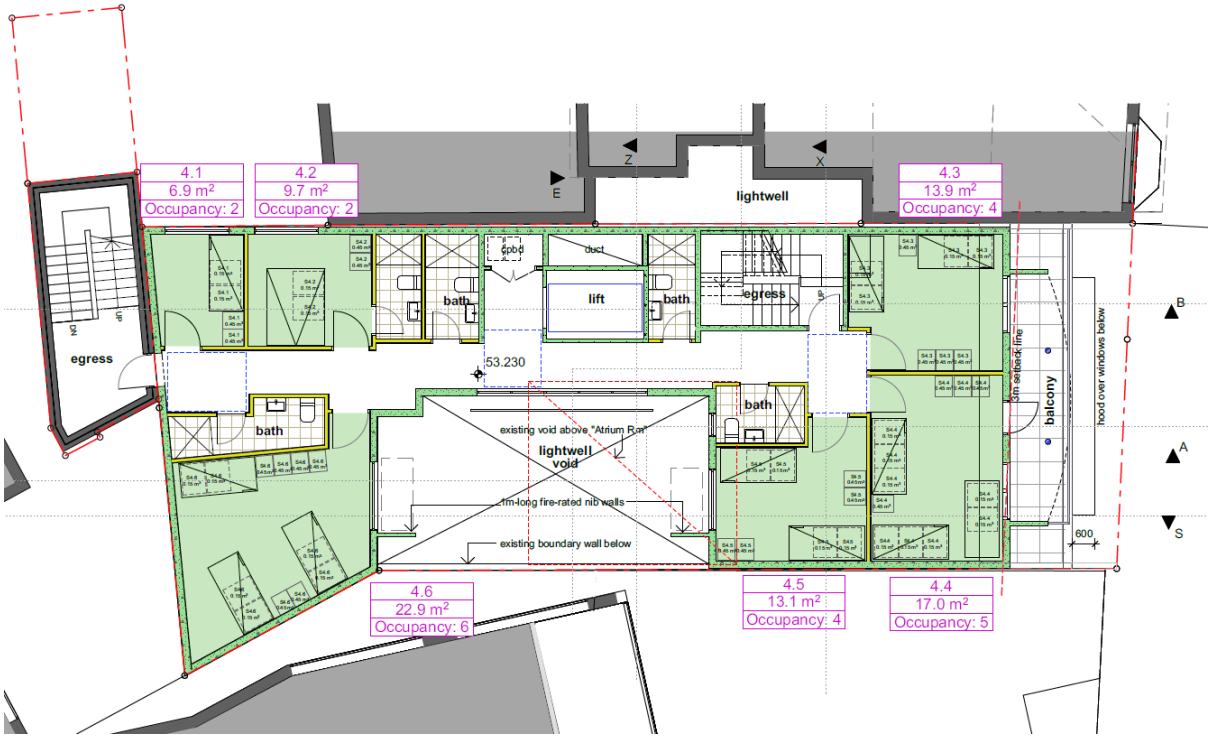


Figure 23: Proposed fourth floor

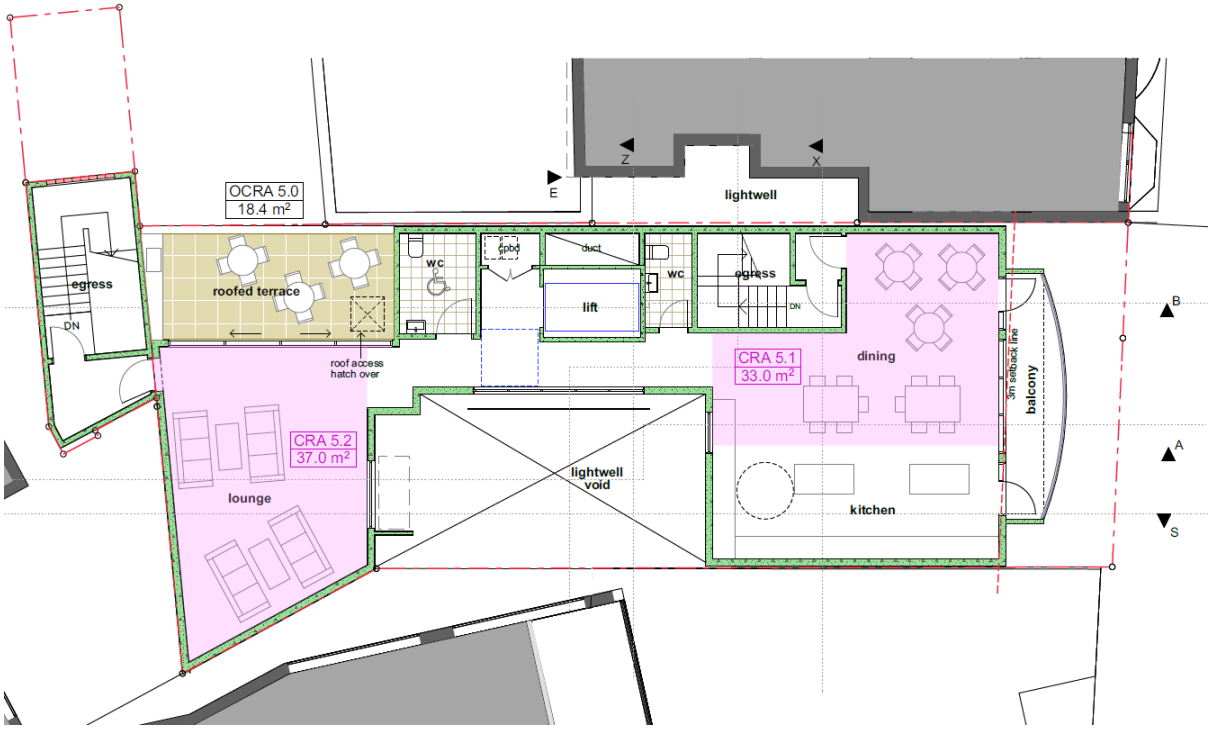


Figure 24: Proposed fifth floor

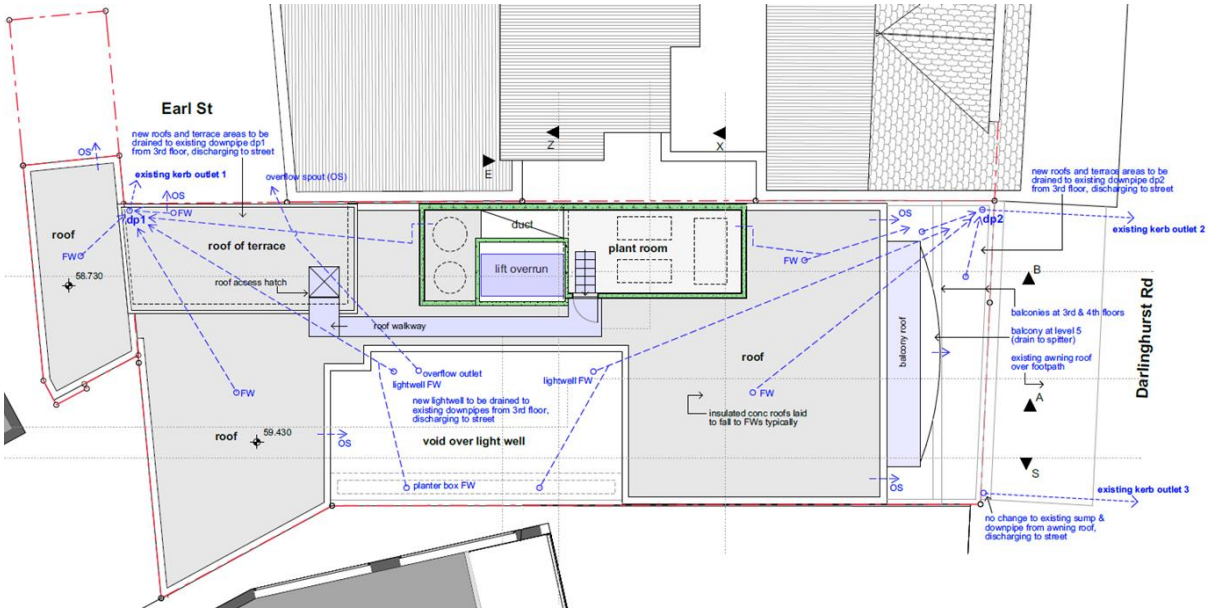


Figure 25: Proposed roof plan



Figure 26: Proposed eastern Darlinghurst Road elevation

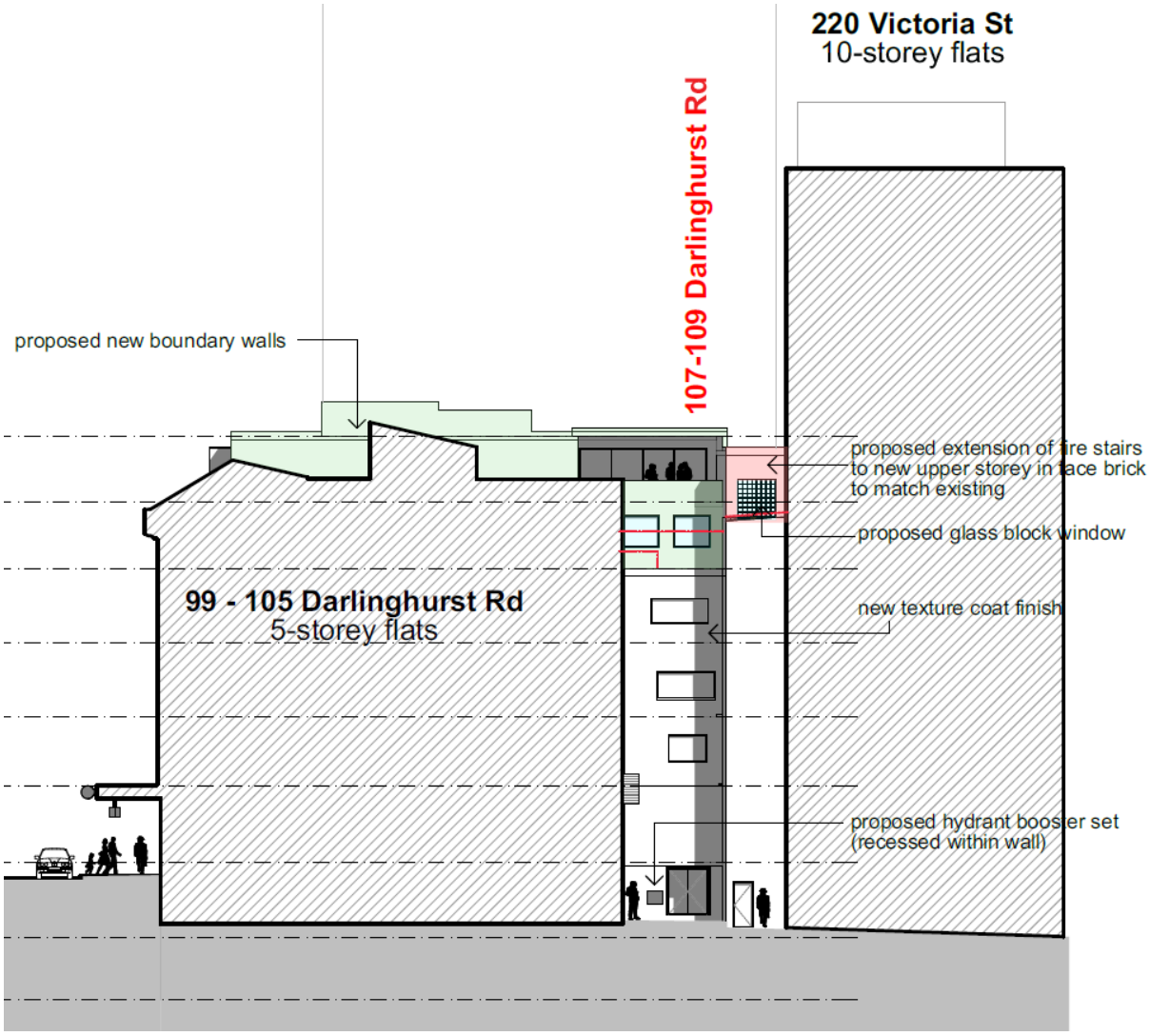


Figure 27: Proposed northern Earl Street elevation

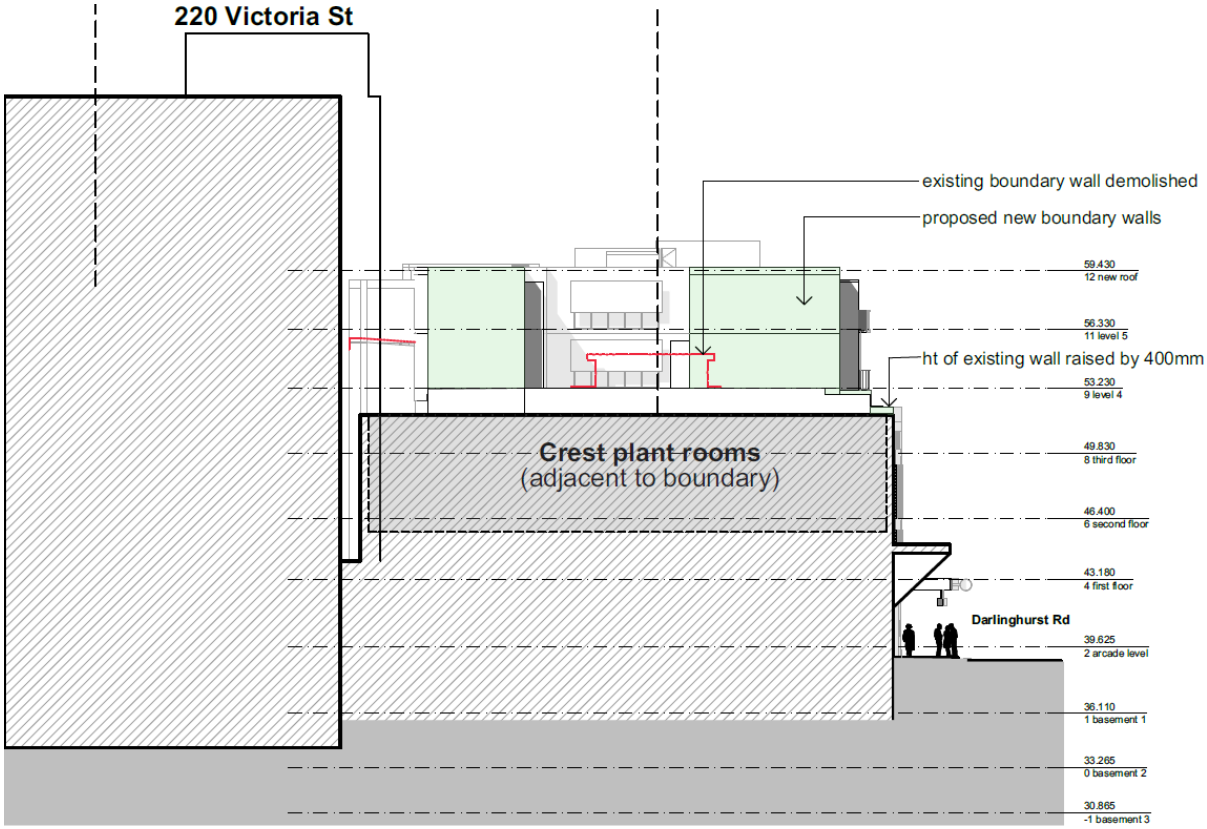


Figure 28: Proposed southern side elevation

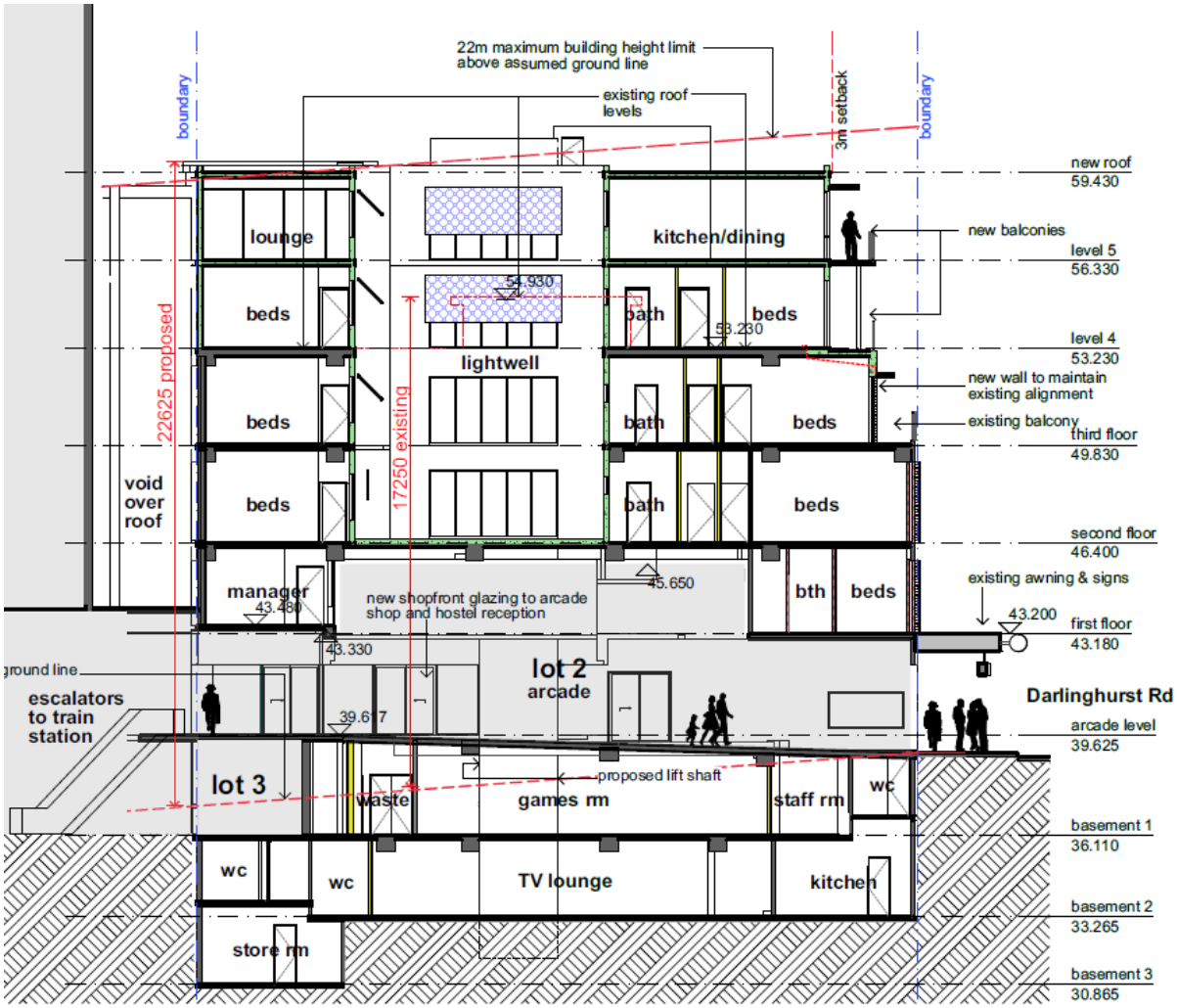


Figure 29: Proposed long section

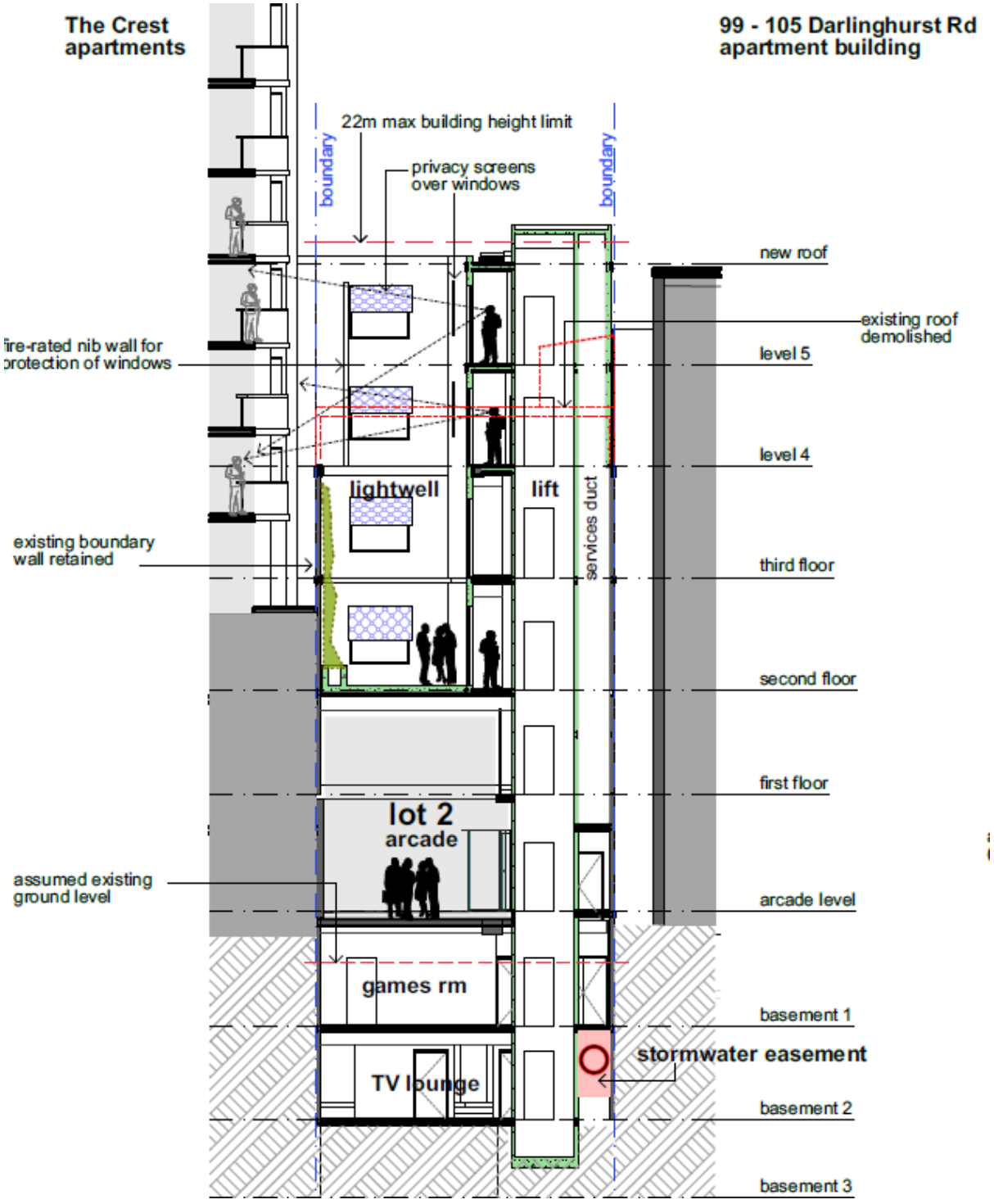


Figure 30: Proposed cross section

Assessment

34. 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 (Transport and Infrastructure) 2021

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

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors

Clause 2.98 – Excavation in, above, below or adjacent to rail corridors

36. Whist the application does not propose excavation, it does involve development above and adjacent to a rail corridor as the development is situated above Kings Cross Train Station. Accordingly, the application was referred to Transport for NSW (Sydney Trains).

37. TfNSW (Sydney Trains) responded to advise that the proposed development has been assessed in accordance with the requirements of Section 2.99(4) and granted its concurrence to the development proposed in development application D/2022/1107.

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021

38. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 10 of the SEPP (Biodiversity and Conservation) 2021. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.

39. 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

40. 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 the E1 - Local Centre zone. The proposed development is defined as a mixed-use development containing backpacker accommodation and retail premises, and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	A maximum building height of 22 metres is permitted. A height of 22.95 metres is proposed. The proposed development does not comply with the maximum height of buildings development standard. A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted. Refer to the further details provided in the 'Discussion' section below.
4.4 Floor space ratio	No	The site is subject to two different floor space ratio controls and a maximum floor space ratio of 2:1 and 3:1 applies over different parts of the site. The permitted gross floor area (GFA) across the site has been calculated to be 601.5 square metres. A floor space ratio of 4.02:1, or 1,038 square metres of GFA is proposed. The proposed development does not comply with the maximum floor space ratio development standards applying to the site. A request to vary the floor space ratio development standard in accordance with Clause 4.6 has been submitted. Refer to the further details provided in the 'Discussion' section below, including assessment of compliance against each of the individual Floor Space Ratio controls.
4.6 Exceptions to development standards	No	The proposed development seeks to vary the development standards prescribed under Clause 4.3 and 4.4 of the Sydney Local Environmental Plan 2012. Clause 4.6 variation requests have been submitted with the application to seek

Provision	Compliance	Comment
		approval to vary the maximum floor space ratio and height of buildings development standards applying to the site. These Clause 4.6 variation requests are not supported. Refer to the further details provided in the 'Discussion' section below.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	No	The site is located within the Potts Point heritage conservation area (Map reference C51). The proposed development is not consistent with the heritage character of the area. Refer to the further details provided in the 'Discussion' section below.

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	No	The proposed development does not exhibit design excellence. Refer to the further details provided in the 'Discussion' section below.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	Yes	The proposed development involves alterations to an existing building that will result in the creation of more than 60 square metres of gross floor area that is intended to be used for a purpose other than residential accommodation, and

Provision	Compliance	Comment
		therefore is subject to an affordable housing contribution. The application is not recommended for approval, however a contribution would apply if the application was considered for approval.
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

41. 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

42. The site is located within the Kings Cross locality. The proposed development is not in keeping with the unique character and the design principles of the Kings Cross locality as it is inconsistent with the prevailing built form and fails to reinforce the urban form of Darlinghurst Road.

Section 3 – General Provisions

Provision	Compliance	Comment
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.
3.6 Ecologically Sustainable Development	Partial compliance	The application does not provide any details of sustainability commitments and is not recommended for approval. Whilst not recommended for approval, it is considered that environmental sustainability and building performance could be appropriately addressed as part of a significant redesign.
3.9 Heritage	No	The site is located within the Potts Point Heritage Conservation Area (Map reference C51). The

Provision	Compliance	Comment
		existing building is identified as a detracting building within the heritage conservation area. The proposed development is not consistent with the heritage character of the area. Refer to the further details provided in the 'Discussion' section below.
3.11 Transport and Parking	Yes	The application proposes to allocate 11 bicycle parking spaces within the basement which meets the requirements of the DCP. The application is not recommended for approval, however there is adequate space within the development to condition end of trip facilities to be provided in accordance with the provisions of the DCP if the application was considered for approval. The application was referred to Council's Transport and Access Unit who raised no objection.
3.12 Accessible Design	Yes	The applicant has provided an access report and access design statement which assesses the ability of the proposed building works to comply with the BCA. The reports suggests that there may be some inherent non-compliances in the design which will need to be addressed by way of a performance solution at Construction Certificate stage. Apart from this however, it is generally considered that the proposed works are capable of complying with the BCA without necessitating significant design changes. The application was referred to Council's Construction and Building Unit who raised no objection to approval of the development application, subject to recommended conditions of consent. The application is not recommended for approval, however all aspects relating to performance solutions to address disability standards would be required to be considered by

Provision	Compliance	Comment
		the Certifying Authority prior to a Construction Certificate being issued for any consent.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.
3.14 Waste	Partial compliance	The application was referred to Council's Cleansing and Waste Unit who observed that the proposed waste arrangements for the backpacker accommodation are not ideal in relation to waste storage or collection of bins as the waste needs to be transported up stairs for collection from Earl Street. However, the proposed waste arrangements for the backpacker accommodation are able to be supported in this instance as they reflect a business-as-usual approach and taking into account that there are limited alternatives. Notwithstanding the above, the application provides inadequate information to demonstrate how waste generated by the various retail tenancies and coffee cart within the Kings Cross Station entrance arcade will be stored and managed. Council officers have raised concerns with the applicant that in the absence of a waste storage area being identified, waste from the retail tenancies and coffee cart may be left in shared spaces whilst awaiting collection and obstruct the fire egress routes and stairs of the backpacker accommodation.

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	No	The site is permitted a maximum building height of 6 storeys with a maximum street frontage height of 4 storeys.

Provision	Compliance	Comment
		The proposed development is 6 storeys in height with a street frontage height of 4 storeys. Section 4.2.2.2 of the DCP requires a setback above the prescribed street frontage height is to be a minimum of 3m. The proposed upper two levels are setback only 1.4m from the building frontage, will be highly visible from Darlinghurst Road and consequently the proposal does not comply with the street frontage height control. Refer to the further details provided under the sub-heading 'Height, Bulk and Massing' in the 'Discussion' section below.
4.2.2 Building setbacks 4.2.2.2 Setbacks above the street frontage height	No	The proposal fails to reinforce the areas desired future character by presenting a development 2-storeys above the prescribed 4-storey street frontage height control applying to the site. Section 4.2.2.2 of the DCP requires a setback above the prescribed street frontage height is to be a minimum of 3m. The proposed upper two levels are setback only 1.4m from the building frontage. The proposed upper two levels are not sufficiently setback from the street frontage and will be highly visible from the public domain, contributing to the visual bulk and massing of the building. Refer to the further details provided under the sub-heading 'Height, Bulk and Massing' in the 'Discussion' section below.
4.2.3 Amenity		
4.2.3.1 Solar access	No	The DCP requires apartments within a development and neighbouring sites must achieve a minimum of 2 hours' direct sunlight between 9am and 3pm on

Provision	Compliance	Comment
		21 June onto at least 1 square metres of living room windows and a minimum 50% of the required minimum area of private open space area. The applicant has provided shadow diagrams and view from the sun diagrams to facilitate assessment of overshadowing impacts. The submission demonstrates that the proposed development will create additional overshadowing to living room windows and private open space areas of apartments within the Omnia Building (Crest Apartments) adjacent at 113 Darlinghurst Road. From this analysis it is evident that the proposal will restrict solar access to the living room windows and private open space areas of a number of the affected apartments to less than 2 hours between 9am and 3pm on 21 June. This constraining of solar access resulting in a non-compliance is directly associated with the proposed development's significant exceedance of the floor space ratio control applying to the site and is not supported. Refer to the further details provided under the sub-heading 'Overshadowing' in the ‘Discussion’ section below.
4.2.3.2 Lightwells	Yes	The application proposes to create a lightwell void to improve light and amenity to bedrooms and areas of the backpacker accommodation. The plans propose fire-rated nib walls off the lightwell to achieve BCA fire safety compliance to the boundary in addition to privacy treatment to windows to restrict overlooking impacts. The application is not recommended for approval, however further details of the privacy treatment measures could be provided as part of a redesign and updated submission demonstrating their

Provision	Compliance	Comment
		efficacy in restricting overlooking if the application was considered for approval. Window operability details of windows facing the lightwell would also be required to determine whether acoustic impacts to the lightwell require mitigation measures.
4.2.3.6 Deep Soil	No, but acceptable	The proposed development provides no deep soil planting areas, however the non-compliance is acceptable in this instance as the site is fully occupied by the existing building which restricts opportunity for deep soil provision.
4.2.3.11 Acoustic privacy	Partial compliance	The applicant has submitted an acoustic report with the application to assess the noise impacts of the backpacker accommodation impacting upon nearby residential receivers. The report advises the development is capable of complying with relevant noise standards provided that recommended noise attenuation measures as set out in the acoustic report are implemented. These attenuation measures include the resealing of acoustic seals. The submitted acoustic report has been reviewed by Council's Environmental Health Unit who have confirmed that the proposal can be supported subject to conditions requiring the recommendations of the report be implemented at construction stage. The application is not recommended for approval and the applicant would first need to confirm window operability details of windows facing the lightwell to determine the adequacy of any acoustic mitigation measures before imposing the above recommended condition. Additional conditions were also recommended restricting the use and occupancy of the proposed rooftop area, including banning of outdoor music, in

Provision	Compliance	Comment
		order to minimise acoustic impacts of the space. The application is not recommended for approval, however these recommended conditions could be readily applied to any consent if the proposal was considered for approval.

4.4 Other Development Types and Uses

4.4.8 Visitor accommodation

Provision	Compliance	Comment
4.4.8.1 General	Yes	The design of the proposed backpacker accommodation use provides acceptable levels of health, safety, cleanliness, amenity and administration for guests. It is appropriately located with good public transport links being that it is situated above Kings Cross Station and a Plan of Management has been submitted with the application which generally demonstrates that the use can operate without adversely impacting on the amenity of the surrounding locality.
4.4.8.4 Additional provisions for backpacker accommodation	Yes	The proposed sleeping rooms of the backpacker accommodation provide adequate space for the proposed number of guests and no single room will accommodate more than 8 guests, in compliance with DCP requirements. The plans demonstrate adequate storage for the proposed occupant capacity of the premises. Communal recreation areas are to be provided at a rate of 0.75 square metres per person based on the maximum number of guests. This equates to a minimum communal recreation area requirement of 68.25 square metres in this instance. The application identifies 152.2 square metres of communal recreation areas on

Provision	Compliance	Comment
		the submitted plans and complies with the provisions of the DCP. The proposed rooftop space has been designed to minimise acoustic impacts upon nearby residential properties and the submitted Plan of Management restricts the use of the space to between 7am and 10pm in accordance with the provisions of the DCP. The proposed layout of the backpacker accommodation provides adequate kitchen/dining areas, bathrooms and laundry facilities. A manager's office and sleeping room is identified on the proposed first floor plan for a resident on site manager.

Discussion

Clause 4.6 Request to Vary Floor Space Ratio Development Standard

43. The site is subject to two different floor space ratio controls with a maximum floor space ratio of 2:1 and 3:1 applying over different parts of the site, pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012.

44. The application incorrectly identifies that a 2:1 Floor Space Ratio controls applies across the entire site which is inaccurate.

45. The permitted gross floor area across the site as a whole has been calculated to be 601.5 square metres.

46. This is calculated on the basis that the 3:1 Floor Space Ratio control applies across 83sqm of the site area - equating to a permissible gross floor area of 249sqm on that portion of the site; whilst the 2:1 Floor Space Ratio control applies across 176sqm of the site area - equating to a permissible gross floor area of 352sqm on that portion of the site.

47. The proposed development does not comply with the maximum floor space ratio development standards applying to the site as a combined floor space ratio of 4.02:1, or 1,038 square metres of gross floor area is proposed across the site as a whole, which represents a 73% variation of the standard.

48. Alternatively, assessing compliance against each of the individual Floor Space Ratio controls which apply to the site:

    - the permissible gross floor area on the 2:1 portion of the site is 352sqm; and
    - the permissible gross floor area on the 3:1 portion of the site is 249sqm.

49. The application proposes 716sqm of gross floor area on the 2:1 portion of the site - representing a 103.4% variation of the 2:1 development standard.

50. The application proposes 322sqm of gross floor area on the 3:1 portion of the site, representing a 29.3% variation of the 3:1 development standard.

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

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

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

    (c) The proposed development will be consistent with the objectives of the zone; and

    (d) The proposed development will be consistent with the objectives of the standard.

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

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

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

        (i) The applicant submits that the maximum floor space ratio does not consider the existing building already exceeds the maximum floor space ratio. It is therefore unreasonable to expect the building to be reduced to comply.

        (ii) The applicant submits that the maximum floor space ratio applicable to the site does not consider a proposal that reduces the existing capacity of the backpacker accommodation, rather than increasing the capacity, as would be typically found in other applications. However, the owners are committed to improving the internal and external layout for the guests, visitors and staff. Therefore, the floor space ratio is unreasonable and unnecessary.

        (iii) The applicant submits that, despite the variation, the proposal comprises a skilful design that is compatible with the established character of the site and the surrounding heritage conservation area and does not cause any significant impacts to the amenity of the site or surrounding area.

        (iv) The applicant submits that the broad application of floor space ratio does not exclude the possibility of a high-quality built form without compromising the amenity of surrounding properties. Despite the variation, the proposal can achieve these outcomes.

        (v) The applicant submits that the site is wedged between a 20-storey building and a five-storey building. As such, the proposed variation is appropriate.

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

(i) The applicant submits that the proposed floor space ratio variation does not materially contribute to additional shadowing that would cause any unreasonable overshadowing to the site or adjoining properties.

(ii) The applicant submits that the proposed setbacks are considered suitable to mitigate against any unreasonable environmental impacts associated with the proposed variation.

(iii) The applicant submits that the floor space ratio variation does not impede on any public or private views.

(iv) The applicant submits that the skilful design maintains appropriate privacy between the proposed building and adjoining buildings. The proposed floor space ratio variation comprises no significant impacts to the overall building envelope.

(v) The applicant submits that the distribution of new floor space and removal of floor space has been appropriately organised to minimise the bulk of the existing building.

(c) The proposed development will be consistent with the objectives of the zone;

(i) The applicant's request was prepared prior to the introduction of the introduction of new zoning under the Sydney Local Environmental Plan 2012.

(ii) Council officers wrote to the applicant to advise that the Clause 4.6 variation requests do not address the current zoning of the land, however the applicant has not submitted a revised request addressing the latest zoning of the land and associated objectives.

(iii) Accordingly, the applicant's request incorrectly refers to the objectives of the now superseded B2 Local Centre zone and provides the following justification against those objectives:

Objective: *to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Applicant's comment: the proposal maintains the existing use as backpacker accommodation and provides small additional retail uses on the ground/arcade level.

Objective: *to encourage employment opportunities in accessible locations.*

Applicant's comment: the proposal provides a necessary upgrade to the building to improve accessibility for guests and staff, thereby achieving this objective.

Objective: *to maximise public transport patronage and encourage walking and cycling.*

Applicant's comment: the site is conveniently located above the Kings Cross train station and the proposal incorporates bicycle spaces.

Objective: *to allow appropriate residential uses so as to support the vitality of local centres.*

Applicant's comment: not relevant as the proposal maintains the existing use as backpacker accommodation.

(d) The proposed development will be consistent with the objectives of the standard

(i) The applicant's request provides the following justification against the objectives of the floor space ratio standard:

Objective (a): *to provide sufficient floor space to meet anticipated development needs for the foreseeable future.*

Applicant's comment: there already is an existing floor space ratio variation and the additional floor space proposed assists with providing greater internal amenity and accessibility for the guests, staff and visitors.

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

Applicant's comment: the proposal seeks to improve the existing building while providing a reduction to the number of guests, from 94 to 91. The capacity is therefore reduced, however the internal amenity is improved, the backpacker hostel is currently not accessible and accessibility is substantially improved via the new lift and other means, and the building will be closer to compliance with the BCA.

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

Applicant's comment: the capacity of the building is reduced and therefore does not increase the need for additional infrastructure.

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

Applicant's comment: the Darlinghurst Road precinct is evolving particularly since the devastating social and economic impacts created by the COVID-19 pandemic. The skilful design reflects a considerate approach to minimising the amenity impacts to the surrounding buildings. The proposed floor space ratio variation is suitable from a heritage perspective as supported by the Heritage Impact Statement submitted with the application. Furthermore, the proposal does not compromise the heritage conservation area.

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

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

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

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

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

54. The applicant's request inadequately addresses the provisions of Clause 4.6(3)(a) as the submission does not identify the two separate Floor Space Ratio development standards applying to different parts of the site.

55. The applicant's request to vary the floor space ratio standard points to the fact that the existing building is already in breach of the standard as existing and therefore compliance with the standard is unreasonable.

56. Whilst it is accepted that it would be unreasonable for existing development on site to be reduced in order to achieve strict compliance with the standard, the application proposes a further variation of the standard beyond the existing breach and therefore the objectives of the floor space ratio standard are a relevant consideration in determining whether the further variation can be supported.

57. In this regard, it is considered that the proposed development is inconsistent with the fourth objective (d) of the floor space ratio standard in that it is inconsistent with character of the locality and adversely impacts upon the amenity of the locality.

58. Council officers disagree that the proposal represents a high-quality built form or skilful design. The proposed development appears incongruous with its surroundings and the architectural articulation fails to tie the development in with the streetscape.

59. The proposed additional floorspace created contributes to the perceived visual bulk and massing of the development and its impact upon the streetscape.

60. Furthermore, the additional bulk and massing causes overshadowing which will constrain solar access to neighbouring residential properties resulting in a non-compliance with the solar access provisions of the Sydney Development Control Plan 2012.

61. The impacts discussed above are directly associated with the proposed development's variation of the floor space ratio development standard and detract from the character and amenity of the locality.

62. Accordingly, further exceedance of the standard is not supported as the proposal is inconsistent with the objectives of the standard.

63. Further discussion of overshadowing impacts, design excellence considerations and the perceived height, bulk and massing of the proposal is provided under the corresponding subheadings of the Discussion section below.

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

64. Council officers do not share the applicant's view that the proposed floor space ratio variation does not materially contribute to additional shadowing that would cause any unreasonable overshadowing to the site or adjoining properties.

65. As discussed in detail under the 'Overshadowing Impacts' subheading of the Discussion section below, the proposal will cause additional overshadowing to residential apartments within the Omnia Building (Crest Apartments) resulting in a non-compliance with the solar access controls of the Sydney Development Control Plan 2012.

66. Council officers do not share the applicant's view that the proposed setbacks are suitable to mitigate against any unreasonable environmental impacts associated with the proposed variation, or that the new floor space has been appropriately organised to minimise the bulk of the existing building.

67. The proposed upper two levels are not sufficiently setback from the street frontage and will be highly visible from Darlinghurst Road, resulting in a non-compliance with the street frontage height control applying to the site, pursuant to Section 4.2.1.1 of the Sydney Development Control Plan 2012.

68. The form and modulation of additional floorspace proposed contributes to the visual bulk and massing of the development. This in part contributes to the development appearing incongruous in the streetscape and detracting from the character of the heritage conservation area.

69. Accordingly, the applicant's written request fails to demonstrate that there are sufficient environmental planning grounds to justify the contravention of the standard.

Is the development in the public interest?

70. The development is not considered to be in the public interest as it is inconsistent with the objectives of the floor space ratio development standard as discussed above, whilst the applicant's written request to vary the standard does not accurately identify the current zoning of the land or the objectives of the zone.

71. The applicant's written request addresses the objectives of the now superseded B2 Local Centre Zone. The zones of the Sydney Local Environmental Plan 2012 have been updated and the site is now situated within the E1 Local Centre Zone, for which different zone objectives apply.

72. Accordingly, the applicant's written request cannot be supported as the request fails to assess public interest considerations by demonstrating that the proposal is consistent with the accurate zone objectives applying the site.

73. It should be noted that State Environmental Planning Policy Amendment (Exceptions to Development Standards) 2023 has removed the requirement for the consent authority to be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

74. Notwithstanding the above, the policy amendment contains savings provisions confirming that a development application made, but not finally determined, before the commencement of State Environmental Planning Policy Amendment (Exceptions to Development Standards) 2023 must be determined as if that policy had not commenced.

75. Accordingly, the subject application was lodged prior to the policy amendment coming into effect and therefore public interest is a relevant consideration in determining whether the applicant's request to vary the development standard can be supported.

Conclusion

76. For the reasons provided above the requested variation to the floor space ratio development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by Clause 4.6(3) of the Sydney Local Environmental Plan 2012. In addition, the proposed development is not in the public interest because it is inconsistent with the objectives of the floor space ratio development standard and the applicant's request has not addressed the objectives of the E1 Local Centre zone.

Clause 4.6 Request to Vary Height of Buildings Development Standard

77. The site is subject to a maximum height of buildings control of 22 metres. The proposed development has a maximum building height of 22.95 metres, representing a 4.3% variation of the height of buildings development standard applying to the site.

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

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

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

    (c) The proposed development will be consistent with the objectives of the zone; and

    (d) The proposed development will be consistent with the objectives of the standard.

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

79. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:

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

        (i) The applicant submits that, despite the variation, the proposal comprises a skilful design that is compatible with the established character of the site and the surrounding heritage conservation area and does not cause any significant impacts to the amenity of the site or surrounding area.

(ii) The applicant submits that the broad application of building height does not exclude the possibility of a high-quality built form without compromising the amenity of surrounding properties. Despite the variation, the proposal can achieve these outcomes.

(iii) The applicant submits that the site is wedged between a 20-storey building and a five-storey building. As such, the proposed building height and variation of only 4.3% is appropriate.

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

(i) The applicant submits that the proposed height variation does not materially contribute to additional shadowing that would cause any unreasonable overshadowing to the site or adjoining properties.

(ii) The applicant submits that the proposed setbacks are considered suitable to mitigate against any unreasonable environmental impacts associated with the proposed variation.

(iii) The applicant submits that the building height variation does not impede on any public or private views.

(iv) The applicant submits that the skilful design maintains appropriate privacy between the proposed building and adjoining buildings. The proposed height variation comprises no significant impacts to the overall building envelope.

(v) The applicant submits that the proposal is also supported from a heritage perspective as demonstrated in the submitted Heritage Impact Statement.

(c) The proposed development will be consistent with the objectives of the zone;

(i) The applicant's request was prepared prior to the introduction of the introduction of new zoning under the Sydney Local Environmental Plan 2012.

(ii) Council officers wrote to the applicant to advise that the Clause 4.6 variation requests do not address the current zoning of the land, however the applicant has not submitted a revised request addressing the latest zoning of the land and associated objectives.

(iii) Accordingly, the applicant's request incorrectly refers to the objectives of the now superseded B2 Local Centre zone and provides the following justification against those objectives:

Objective: *to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Applicant's comment: the proposal maintains the existing use as backpacker accommodation and provides small additional retail uses on the ground/arcade level.

Objective: *to encourage employment opportunities in accessible locations.*

Applicant's comment: the proposal provides a necessary upgrade to the building to improve accessibility for guests and staff, thereby achieving this objective.

Objective: *to maximise public transport patronage and encourage walking and cycling.*

Applicant's comment: the site is conveniently located above the Kings Cross train station and the proposal incorporates bicycle spaces.

Objective: *to allow appropriate residential uses so as to support the vitality of local centres.*

Applicant's comment: not relevant as the proposal maintains the existing use as backpacker accommodation.

(d) The proposed development will be consistent with the objectives of the standard

(i) The applicant's request provides the following justification against the objectives of the height of buildings standard:

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

Applicant's comment: The proposed height is considered to be appropriate given there is an existing height variation and the proposed addition is setback from the street. The addition is at the rear and the proposal is contextually appropriate given the 20 storey Omnia building to the south and acts as a suitable transition to the lower buildings to the north.

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

Applicant's comment: The proposed height of the addition is suitable from a heritage perspective as supported by the submitted Heritage Impact Statement Furthermore, the proposal does not compromise the heritage conservation area.

(ii) The applicant's written request does not address objectives (c) to (e) of the height of buildings development standard, however it is agreed that these objectives do not apply to the proposed development as they relate exclusively to sites within Central Sydney and Green Square.

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

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

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

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

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

81. Council officers do not share the view that the proposal is compatible with the character of the streetscape and surrounding heritage conservation area.

82. The breach of the height of buildings standard contributes to the bulk and massing of the building, although the elements of the development in breach of the standard are setback from the building frontage and not highly visible from the public domain, as illustrated by figure 31 below.

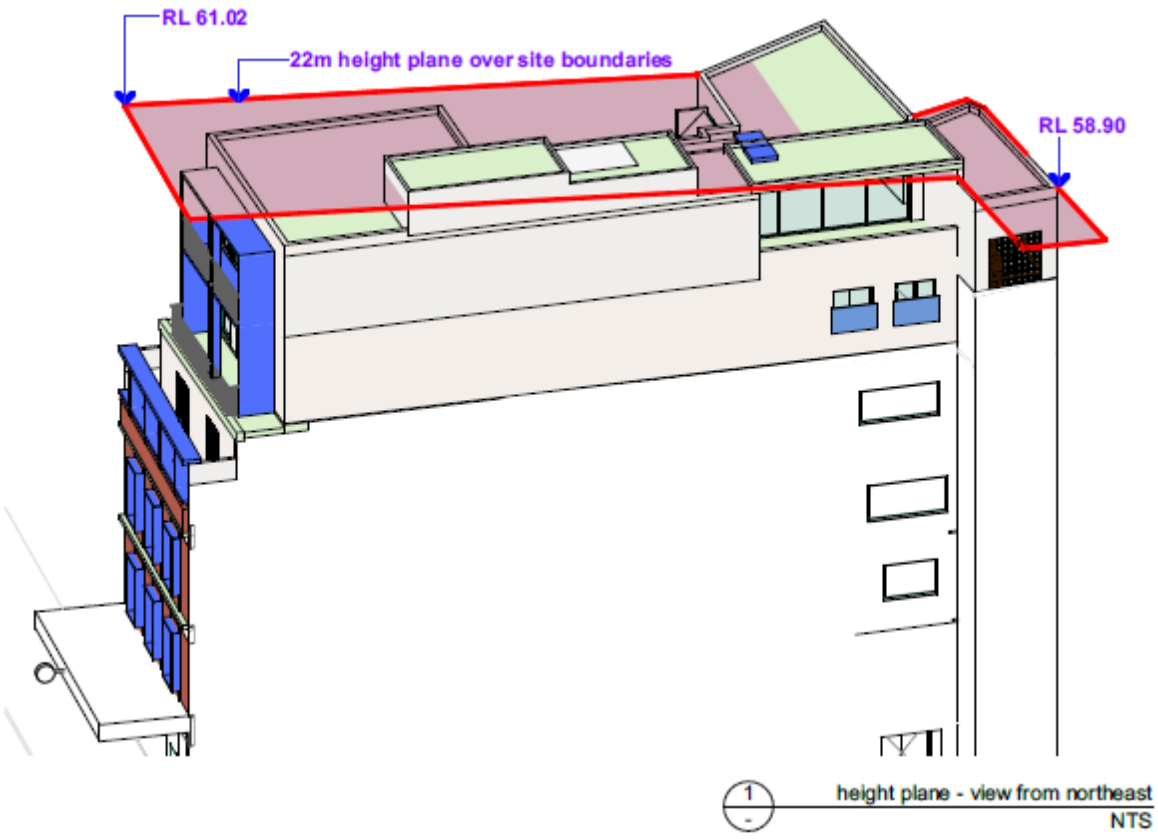


Figure 31: Three dimensional height plane illustrating elements of the proposed development in breach of the Sydney Local Environmental Plan 2012 22 metre Height of Buildings development standard

83. Similarly, council officers do not share the view that the proposal presents a high-quality built form, or that it does not compromise the amenity of locality, however the elements of the proposed development in breach of the height of buildings standard are not principally attributed with these impacts.

84. While in isolation the elements of the development in breach of the height control have a negligible impact upon the amenity of its surroundings and impact upon the streetscape, the breaches are considered to be a product of the excessive bulk and height of development at the street frontage to Darlinghurst Road, noting that part of the breach relates to a stair and lift overrun.

85. Accordingly, compliance with the development standard is considered relevant and necessary in the circumstances of case as it provides a relevant measure to ensure development is appropriate to its context and designed to accommodate all ancillary structures such as lift and stair overruns within the height limit.

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

86. Council officers accept that the proposed height variation does not materially contribute to additional shadowing that causes unreasonable overshadowing to the site or adjoining properties.

87. Whilst it is considered that the proposal causes unacceptable overshadowing to neighbouring properties resulting in a non-compliance, the elements of the development in breach of the height of buildings standard are generally not attributed with these impacts.

88. Notwithstanding the above, council officers do not share the view that the height variation comprises no significant impacts to the overall building envelope.

89. As discussed above, the proposed stair and lift overrun in breach of the standard are in part a result of excessive bulk and massing at the front of the building and the development should be designed to accommodate these ancillary structures within the permitted envelope.

90. Accordingly, the applicant's written request fails to demonstrate that there are sufficient environmental planning grounds to justify the contravention of the standard.

Is the development in the public interest?

91. The development is not considered to be in the public interest as it is inconsistent with the objectives of the height of buildings development standard as discussed above, whilst the applicant's written request to vary the standard does not accurately identify the current zoning of the land or the objectives of the zone.

92. The applicant's written request addresses the objectives of the now superseded B2 Local Centre Zone. The zones of the Sydney Local Environmental Plan 2012 have been updated and the site is now situated within the E1 Local Centre Zone, for which different zone objectives apply.

93. Accordingly, the applicant's written request cannot be supported as the request fails to assess public interest considerations by demonstrating that the proposal is consistent with the accurate zone objectives applying the site.

94. It should be noted that State Environmental Planning Policy Amendment (Exceptions to Development Standards) 2023 has removed the requirement for the consent authority to be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

95. Notwithstanding the above, the policy amendment contains savings provisions confirming that a development application made, but not finally determined, before the commencement of State Environmental Planning Policy Amendment (Exceptions to Development Standards) 2023 must be determined as if that policy had not commenced.

96. Accordingly, the subject application was lodged prior to the policy amendment coming into effect and therefore public interest is a relevant consideration in determining whether the applicant's request to vary the development standard can be supported.

Conclusion

97. For the reasons provided above, the requested variation to the height of buildings development standard is not supported as the applicant's written request has not adequately addressed the matters required to be addressed by Clause 4.6(3) of the Sydney Local Environmental Plan 2012. In addition, the proposed development is not in the public interest because it is inconsistent with the objectives of the Height of Buildings development standard and the applicant's request has not addressed the objectives of the E1 Local Centre zone.

Overshadowing

98. Section 4.2.3.1 of the Sydney Development Control Plan 2012 requires that any apartments within proposed developments and existing apartments within neighbouring developments must achieve 2 hours' direct sunlight between 9am and 3pm on 21 June onto at least 1 square metres of living room windows and a minimum 50% of the required minimum area of private open space area.

99. At the request of Council officers, the applicant has provided shadow diagrams and view from the sun diagrams at hourly intervals between 9am and 3pm on 21 June to facilitate assessment of the overshadowing impacts of the proposal against the solar access provisions of the Sydney Development Control Plan 2012.

100. The information provided demonstrates that the proposed development will cause additional overshadowing to living room windows and private open space areas of apartments within the Omnia building (Crest Apartments) to the south at 113 Darlinghurst Road.

101. While some of the apartments affected by additional overshadowing will maintain compliant 2 hours' solar access, there are a number of apartments which are affected by additional overshadowing where solar access is constrained to less than 2-hours and resulting in a non-compliance with the provisions of the DCP.

102. Namely - the living room windows of Unit 4.12 and the private open space raised terrace areas of Unit 3.02 and Unit 3.03 on the podium Level 3 of the Omnia building.

Overshadowing to Living Room Windows of Unit 4.12

103. Unit 4.12 currently receives 2 hours' direct solar access to its north facing living room windows between 10am and 12 midday on 21 June.

104. The proposed development and additional two levels proposed atop of the existing building will block all direct sunlight these living room windows currently receive between 9am and 3pm on 21 June resulting in a non-compliance with the provisions of the DCP.

105. Overshadowing impacts to these living room windows are demonstrated by Figure 32 below, with the living room windows in question highlighted in red.

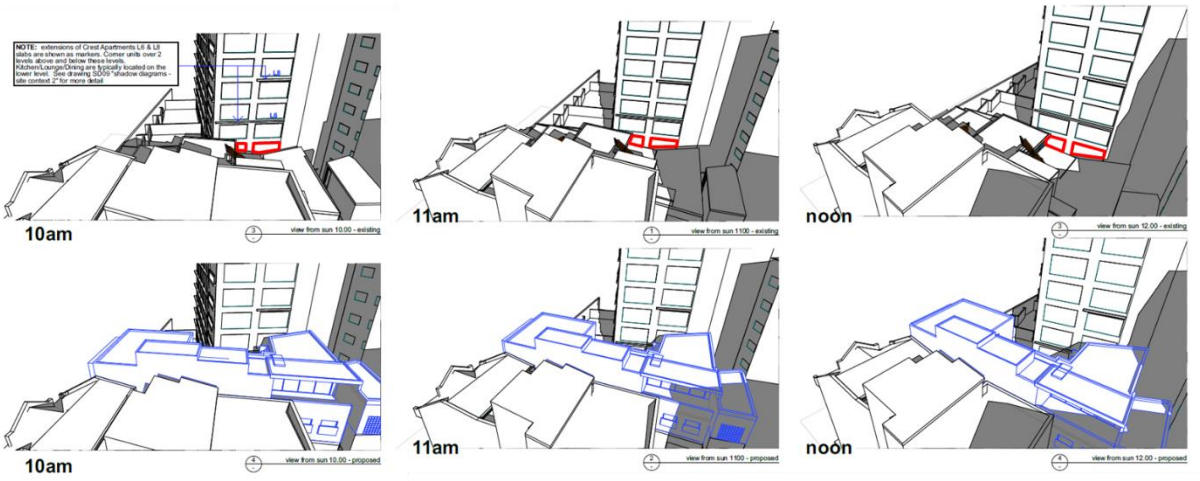


Figure 32: View from the sun diagrams demonstrating additional overshadowing impacts to the living room windows of Unit 4.12 within the Omnia building adjacent - highlighted in red

Overshadowing to Private Open Space Areas of Unit 3.02 and Unit 3.03

106. The private open space terrace area of Unit 3.02 on the podium level of the Omnia building currently receives 2 hours' direct sunlight between 9am and 11am on 21 June.

107. As Unit 3.02 is a 2-bedroom apartment, the required minimum amount of private open space provision is 10 square metres in accordance with the provisions of the Objective 4E-1 of the NSW ADG.

108. Accordingly, the minimum solar access requirement to this terrace area is 2 hours' direct sunlight to at least 5 square metres, as 50% of the minimum required area pursuant to Section 4.2.3.1 of the Sydney DCP.

109. Whilst the applicant has not provided dimensions to measure existing solar access to this space, it is noted that the terrace measures 96 square metres and it is considered that the terrace will comfortably achieve the minimum 5 square metres direct sunlight for at least 2-hours as existing.

110. Similarly, the adjacent private open space terrace area of Unit 3.03 on the same podium level of the Omnia building currently receives 2 hours' direct sunlight between 10am and 12 midday on 21 June.

111. Like Unit 3.02, Unit 3.03 is also a 2-bedroom apartment and therefore the minimum solar access requirement to this terrace area is 2 hours of direct sunlight to at least 5sqm, pursuant to Section 4.2.3.1 of the Sydney DCP.

112. Whilst the applicant has not provided dimensions to measure existing solar access to this space, it is noted that the terrace measures 79 square metres and it is considered that the terrace will comfortably achieve the minimum 5 square metres direct sunlight for at least 2-hours as existing.

113. The proposed development and additional two levels proposed atop of the existing building will block almost all direct sunlight to these private open space areas during the morning hours between 9am and 12midday on 21 June.

114. This is the only time of day the terrace areas currently receive direct sunlight, resulting in a non-compliance with Section 4.2.3.1 of the DCP.

115. Overshadowing impacts to these private open space areas is demonstrated by Figure 33 below, with the terraces of Unit 3.02 and Unit 3.03 highlighted in green.

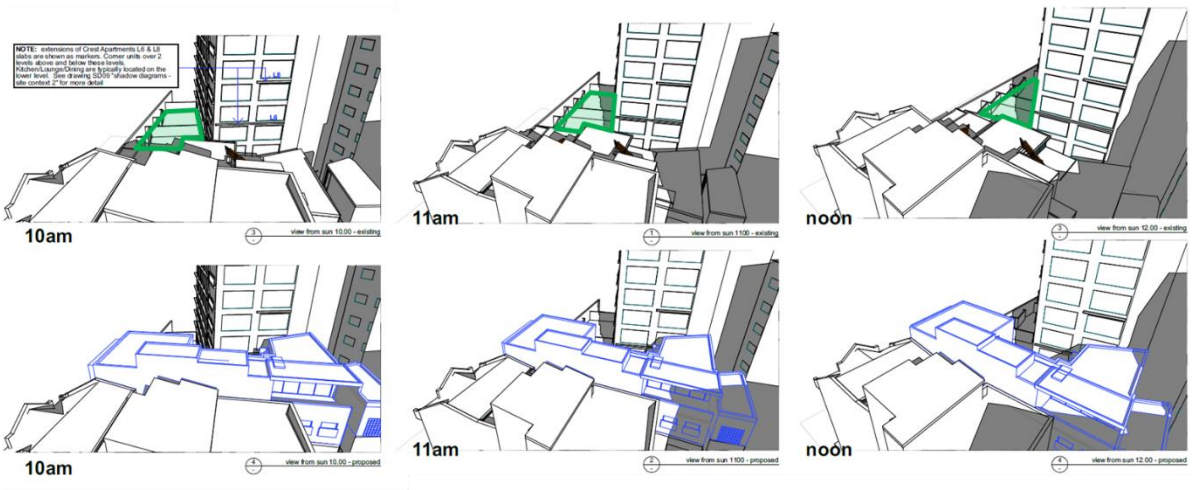


Figure 33: View from the sun diagrams demonstrating additional overshadowing impacts to the terraces of Unit 3.02 and Unit 3.03 on the podium level of the Omnia building adjacent - terrace areas highlighted in green

Summary of Overshadowing Impacts

116. As demonstrated above, the proposed development will cause additional overshadowing to residential apartments within the Omnia building at 113 Darlinghurst Road and will block existing solar access resulting in a non-compliance with Section 4.2.3.1 of the DCP.

117. A notation in the DCP confirms that Section 4.2.3.1 applies to at least 70% of apartments within a development.

118. In this regard, it is noted that the development consent for conversion of the former Crest Hotel into residential apartments (D/2015/331) - now known as the 'Omnia' building - permitted a non-compliance with the solar access provisions of the Residential Flat Design Code. Only 65% of apartments within the approved development achieved 2 hours of direct sunlight to living room windows and only 66% of apartments within the building achieved 2 hours of direct sunlight to private open space areas at midwinter.

119. Accordingly, given the existing solar compliance of the Omnia building, the impact of any additional overshadowing is more acute.

120. The proposed development will obstruct almost all solar access to living room windows or private open space areas of 3 apartments within the Omnia building at midwinter.

121. Noting that the additional overshadowing is directly associated with and caused by the proposed development's significant exceedance of the floor space ratio control applying to the site pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012, the proposal is not recommended for approval and in the opinion of Council officers, should not be supported.

Height, Bulk and Massing

122. The site is subject to three different height controls; a 22 metre maximum height limit pursuant to Clause 4.3 of the Sydney Local Environmental Plan 2012 (LEP), in addition to a maximum 6-storey height control and maximum 4-storey street frontage height controls pursuant to Section 4.2.1.1 of the Sydney Development Control Plan 2012 (DCP).

123. These height controls should work together to inform the design, massing and modulation of development on the site.

124. The application inadequately responds to the height controls, proposing a development which is in breach of the LEP 22 metre height control and presents a 6-storey development to Darlinghurst Road, in breach of the 4-storey street frontage height control of the DCP.

125. Section 4.2.2 of the DCP encourages new building setbacks where appropriate to reinforce the areas desired future character, whilst Clause 4.2.2.2 of the DCP recommends a setback above the prescribed street frontage height is to be a minimum of 3 metres with ancillary structures or screening visually recessed to be secondary to the street wall of the building.

126. The applicant submits that the additional two levels are proposed to the rear of the site and therefore setback from the existing streetscape, however this view is not shared by Council officers.

127. The proposed upper two levels complete with protruding balconies are setback only 1.4 metres from the street frontage and will be highly visible within the streetscape from Darlinghurst Road.

128. The applicant has sought to justify the proposed height by referencing existing development adjacent - namely the 20-storey Omnia building to the south (113 Darlinghurst Road) and the five-storey mixed use building to the north at 99-105 Darlinghurst Road.

129. In this regard, it is noted that the Omnia building is situated on a corner site and an entirely different typology to the subject development site.

130. Similarly, 99-105 Darlinghurst Road is somewhat of an outlier in the street as a 5-storey development with the majority of development on this section of Darlinghurst Road on either side of the street generally being between 2 and 3 storeys in height.

131. Accordingly, the 4-storey street frontage height ensures an appropriate height transition without development having an overbearing or dominant impact upon the streetscape.

132. The proposed development inadequately responds to the height controls applying to the site and places excessive bulk and massing at the street frontage, becoming a dominant and detracting presence within the streetscape.

133. The excessive bulk and massing at the front of the site is exemplified by the highly visible and blank expression of the southern side of the upper levels of the development in profile view from Darlinghurst Road, as illustrated by Figure 34 below.

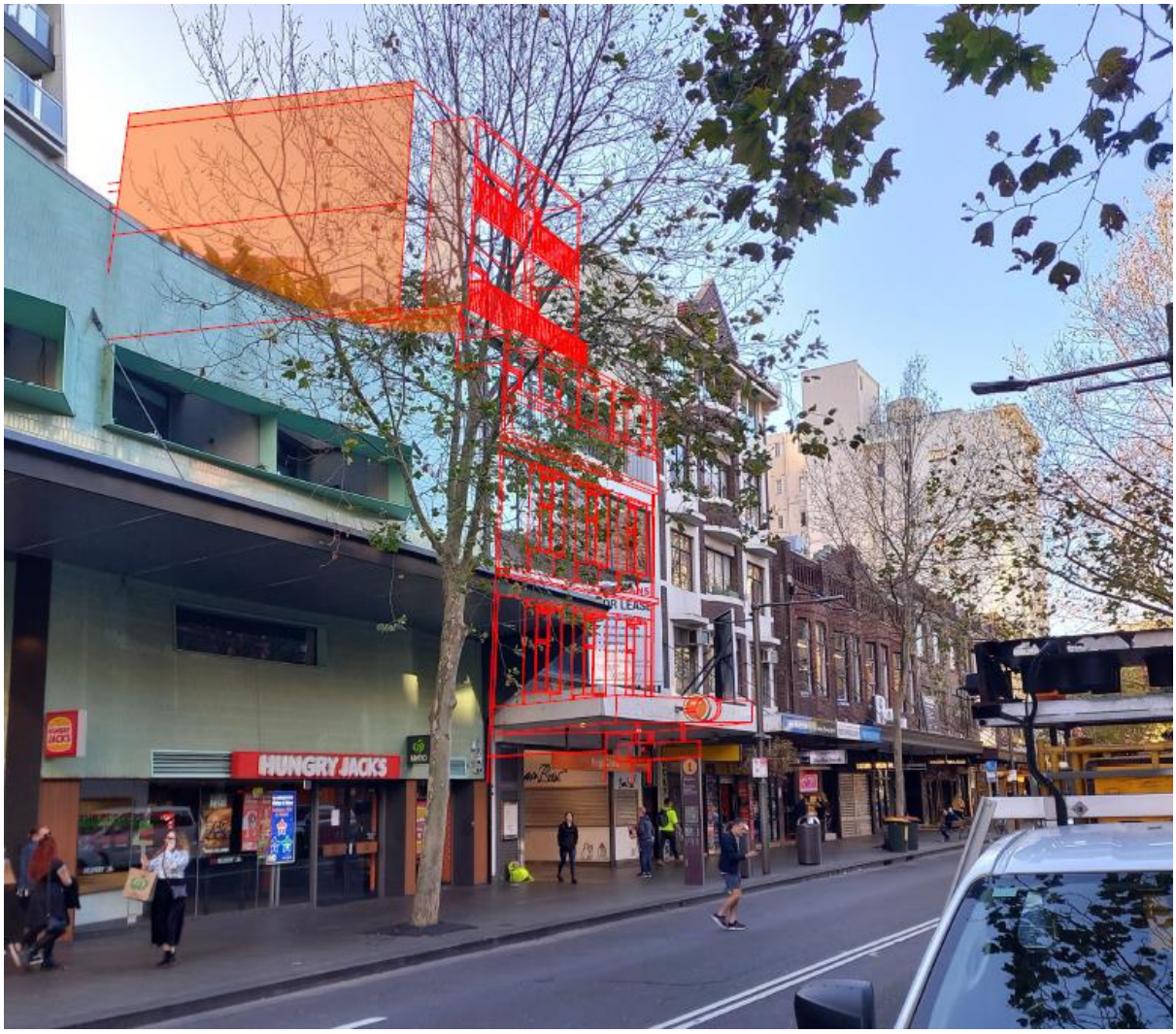


Figure 34: Wire frame view of proposed development looking north along Darlinghurst Road

134. The proposed development appears incongruous with its setting and detracts from the Darlinghurst Road streetscape, as discussed further under 'Design Excellence' subheading below.

Design Excellence

135. Clause 6.21C of the Sydney Local Environmental Plan 2012 confirms that development consent must not be granted to development unless, in the opinion of the consent authority, the proposed development exhibits design excellence.

136. In considering whether development exhibits design excellence, regard must be given to whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved.

137. In this regard, it is considered that the proposed upper-level additions and elements lack integration with the architectural design of the rest of the building, resulting in a

somewhat ad-hoc appearance where the development can be viewed from the public domain and in elevation.

138. This issue is exacerbated by the existing setback and balcony of the fourth storey of the building resulting in an irregular tiered effect, in addition to the various proposed protruding elements on the Darlinghurst Road frontage, including window surrounds, decorative brickwork and upper-level balconies, framing and balustrades.

139. The design of the front elevation would be better served by bringing the fourth storey forward to reinforce the 4-storey street frontage and extending a continuous parapet atop to crown the principal street frontage elevation.

140. The design of the upper-level additions should then be further recessed and integrated with the design of the existing building in order to minimise their visual prominence and detracting impact upon the streetscape and heritage conservation area.

141. Rather than protruding elements, window openings should be recessed into the wall to provide a cleaner facade to reinforce the repetitive elements of the surrounding neighbourhood character and improve the contribution of the site to the character of the heritage conservation area, pursuant to Section 3.9.9 of the Sydney Development Control Plan 2012.

142. Further, as outlined in detail above, the proposed development causes unacceptable overshadowing impacts to neighbouring properties by constraining existing solar access to residential apartments resulting in a non-compliance.

143. Accordingly, the application fails to demonstrate a high standard of architectural design and detailing appropriate to the location and inadequately addresses environmental impacts upon adjoining properties.

144. The application is therefore not recommended for approval as it fails to satisfy the design excellence provisions, pursuant to Clause 6.21C of the Sydney Local Environmental Plan 2012.

Consultation

Internal Referrals

145. The application was discussed with Council's:

(a) Building Services Unit;

(b) Environmental Health Unit;

(c) Public Domain Unit;

(d) Surveyors;

(e) Transport and Access Unit;

(f) Tree Management Unit; and

(g) Waste Management Unit.

146. The above-mentioned Council Units advised that the proposal is generally acceptable and could be supported subject to conditions. The application is not recommended for approval, however the recommended conditions of internal referrals could be readily applied to any future consent if the application was considered for approval.

147. Council's Tree Management Unit raised concerns that the applicant has not provided a Landscape Plan demonstrating that the proposed development could achieve 15% canopy coverage within 10 years of completion.

148. The application is not recommended for approval and this information was not sought from the applicant as the site is already fully occupied by existing development and therefore tree planting opportunities are severely limited.

149. The application was discussed with Council's Heritage and Urban Design Specialists who raised concerns that the proposal fails to exhibit Design Excellence and will adversely impact upon the character of the area and the amenity of surrounding properties. Refer to the further details provided in the 'Discussion' section above.

External Referrals

Sydney Trains

150. Pursuant to Clause 2.98 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Sydney Trains for comment.

151. Whist the application does not propose excavation, it does involve development above and adjacent to a rail corridor as the development is situated above Kings Cross Train Station. Accordingly, the application was referred to Transport for NSW (Sydney Trains).

152. Sydney Trains responded to advise that the proposed development has been assessed in accordance with the requirements of Section 2.99(4) of the SEPP and granted its concurrence to the development proposed in development application D/2022/1107.

Advertising and Notification

153. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was required to be notified for a period of 21 days. The application was notified between 19 December 2022 and 30 January 2023 as the Christmas period was excluded from the required notification period.

154. A total of 615 properties were notified and no submissions were received.

Relevant Legislation

155. Environmental Planning and Assessment Act 1979.

Conclusion

156. The application proposes alterations and additions to an existing mixed-use building above Kings Cross Station, including construction of two additional levels. The application principally proposes extension and upgrade of an existing backpacker hostel accommodation, in addition to changes to several small-scale pocket retail tenancies within the street level arcade entrance to Kings Cross Station.

157. While the proposed continued use for backpacker accommodation is an appropriate use of the site, the design and form of the associated alterations and additions proposed are more problematic as they adversely impact upon local character and amenity.

158. The design, massing and modulation contributes to the perceived excessive visual bulk of the proposal. This has an overbearing impact upon the Darlinghurst Road streetscape and detracts from the character of the Potts Point Heritage Conservation Area.

159. The perceived overdevelopment is a direct result of the proposal's significant exceedance of the floor space ratio development standards applying to the site pursuant to Clause 4.4 of the Sydney Local Environmental Plan 2012; and, to a lesser extent, the proposal's exceedance of the maximum height of buildings development standard pursuant to Clause 4.3 of the Sydney Local Environmental Plan 2012.

160. The submitted Clause 4.6 variation requests to vary the floor space ratio and height of buildings development standards are not supported as they fail to adequately address the requirements of Clause 4.6(3) of the Sydney Local Environmental Plan 2012.

161. While it is acknowledged that the existing building is in breach of the floor space ratio development standards, the proposed further exceedance of the control is directly associated with the development's overbearing impact upon the streetscape and overshadowing of neighbouring residential dwellings adjacent.

162. Accordingly, further exceedance of the floor space ratio control is not supported as the development is inconsistent with the objective in Clause 4.4(1)(d) of the Sydney Local Environmental Plan 2012, which requires that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

163. Further, the height in storeys and street frontage height controls which apply require a more nuanced design response which the proposed development fails to address.

164. In tandem with the above, the somewhat ad hoc appearance of the proposed design fails to tie in the development with the existing streetscape or integrate the proposed additions with the overall architecture of the building.

165. As a result, the proposed development lacks cohesion, appears incongruous within the streetscape and fails to satisfy the design excellence provisions of the Sydney Local Environmental Plan 2012.

166. These impacts can in large part be attributed to the massing and modulation of the proposed non-compliant upper-level additions, which in turn adversely impact upon the residential amenity of adjoining properties.

167. Accordingly, the application is therefore recommended for refusal as it will detract from the character of the streetscape and heritage conservation area, will adversely impact upon the amenity of the locality and fails to justify exceedance of the floor space ratio and height of buildings development standards applying to the site.

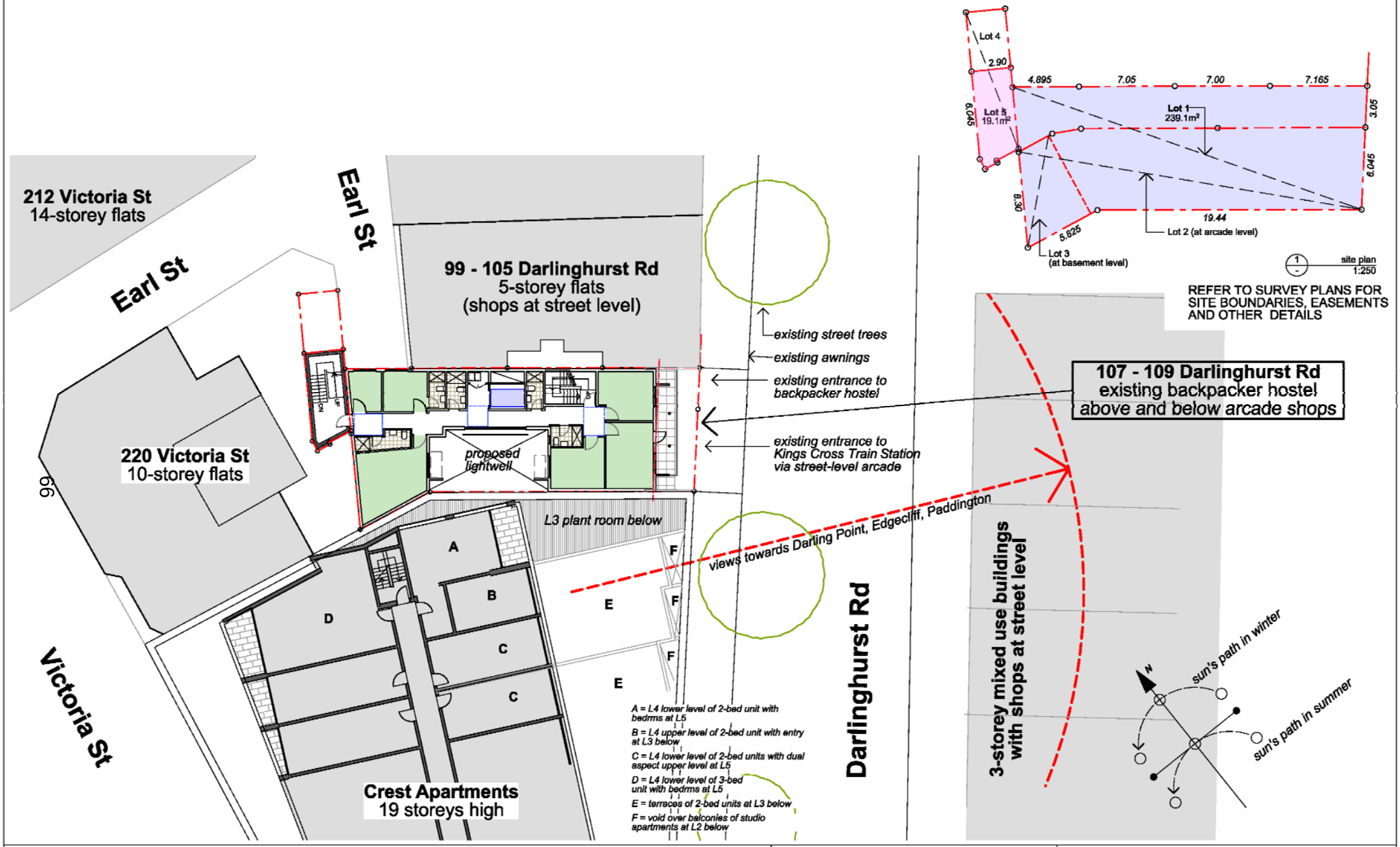
ANDREW THOMAS

Executive Manager Planning and Development

Daniel Stanley, Planner

Attachment A1

Selected Drawings



Issue	Date	Notes
A	20/10/22	issued for DA

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.

Architect: **James Burns**
NSW architect registration No. 8404
abn 32 188 158 681
89 Avoca St, Randwick 2031
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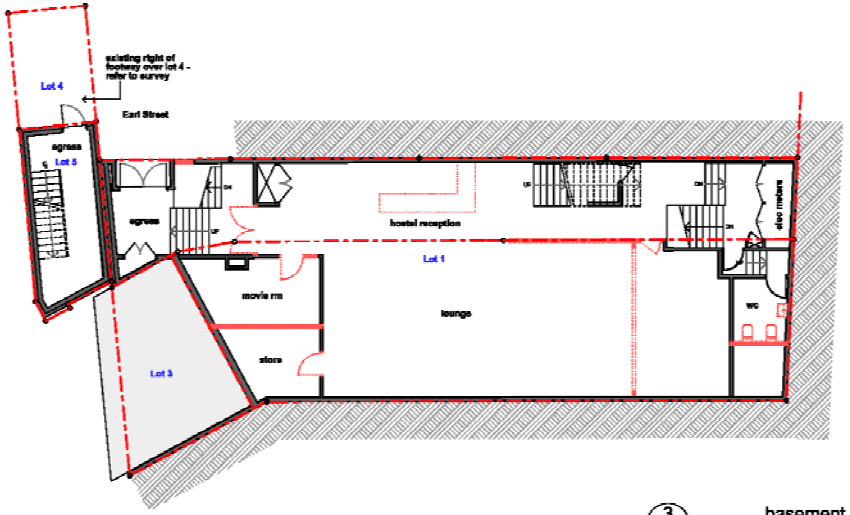
email burnsjf@optusnet.com.au

Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

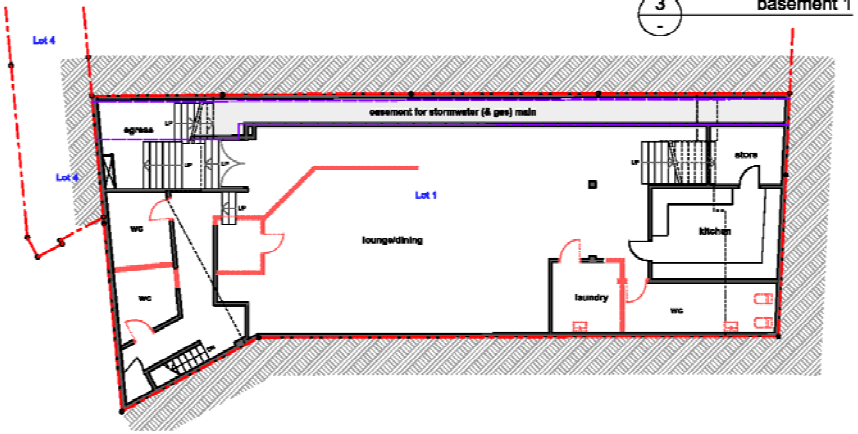
Drawing Title: site plan & site context plan

Scales: 1:250 (@ A3) **Drawing No.:** **DA01** **Issue:** A

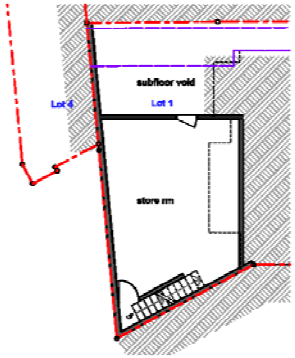
printed: 21/10/2022



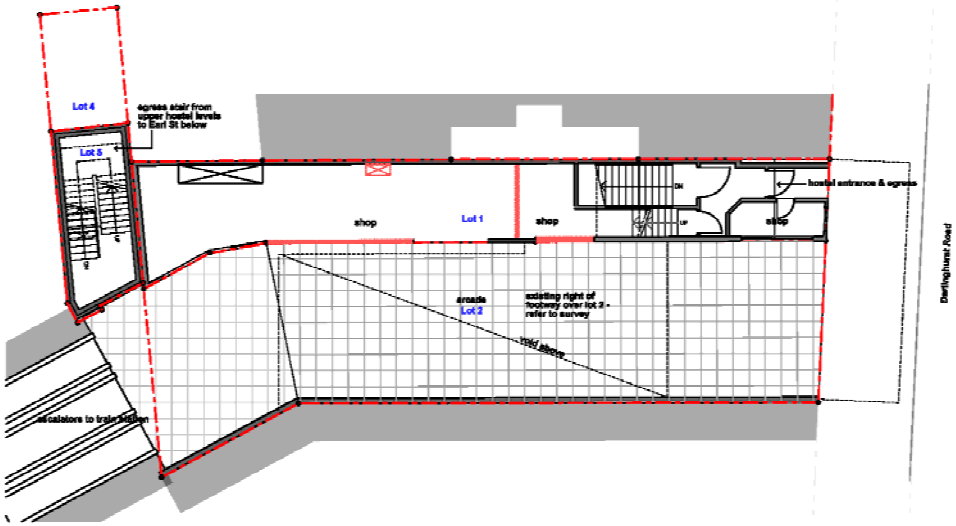
3 - basement 1



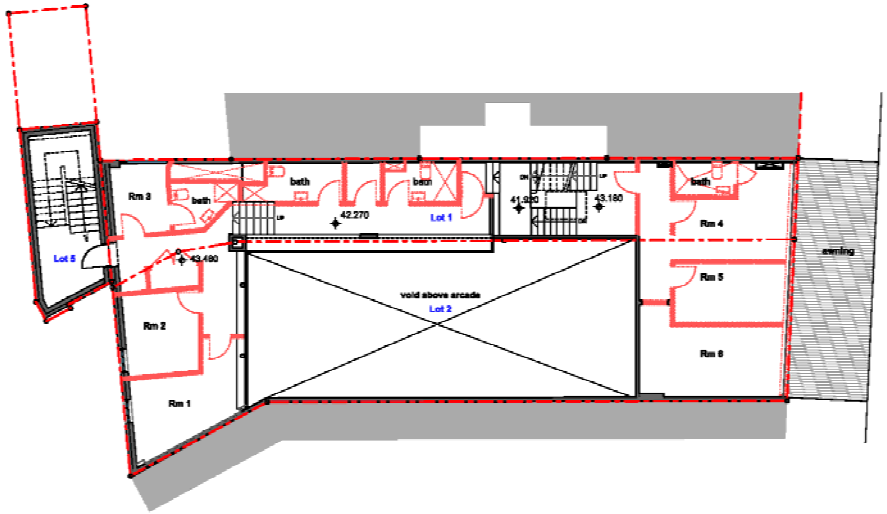
2 - basement 2



1 - basement 3



4 - arcade level



5 - first floor

67

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A	20/10/22	issued for DA

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email burnsjf@optusnet.com.au

Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

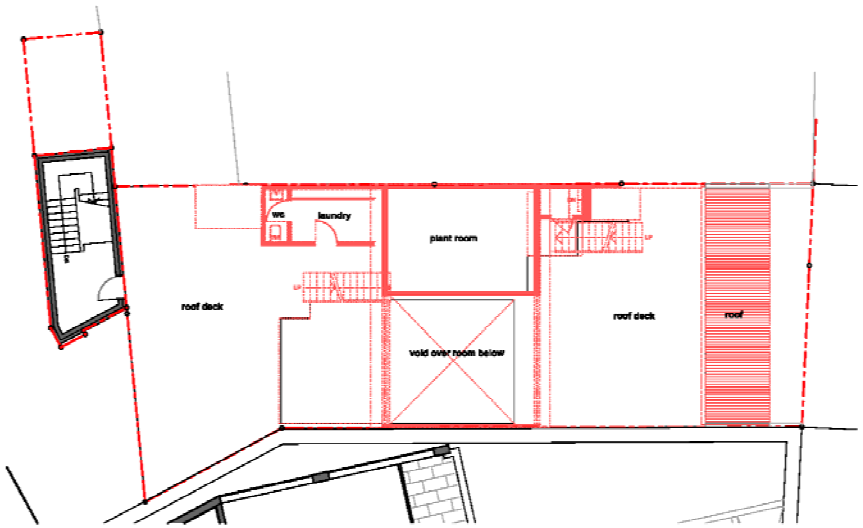
Drawing Title: existing floor & demolition plans 1

Scales: 1:200 (@ A3) **Drawing No.:** **DA02** **Issue:** A

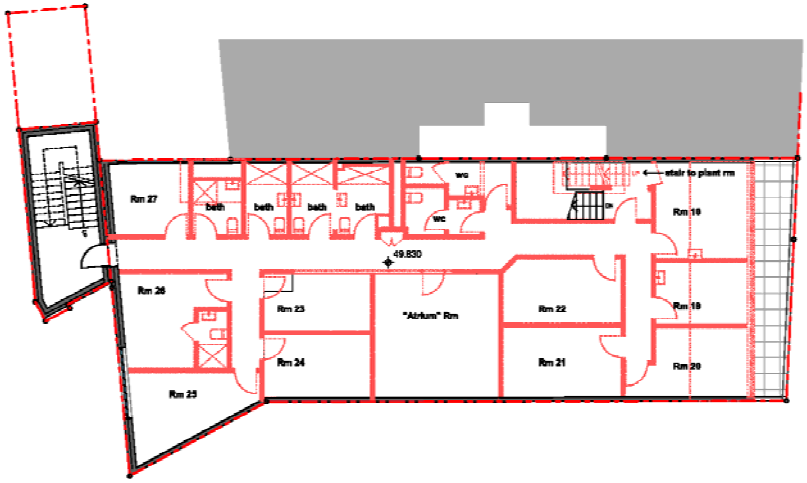
printed: 21/10/2022



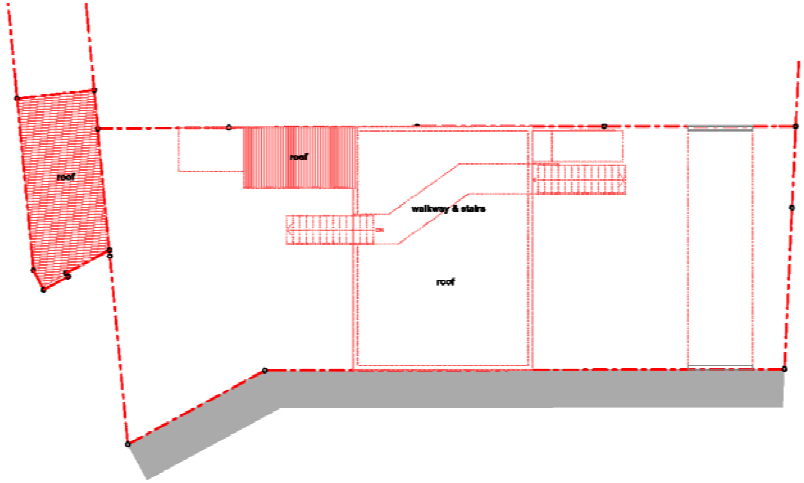
1 - second floor



3 - level 4 roof



2 - third floor



4 - upper roof

89

Issue	Date	Notes
A	20/10/22	issued for DA

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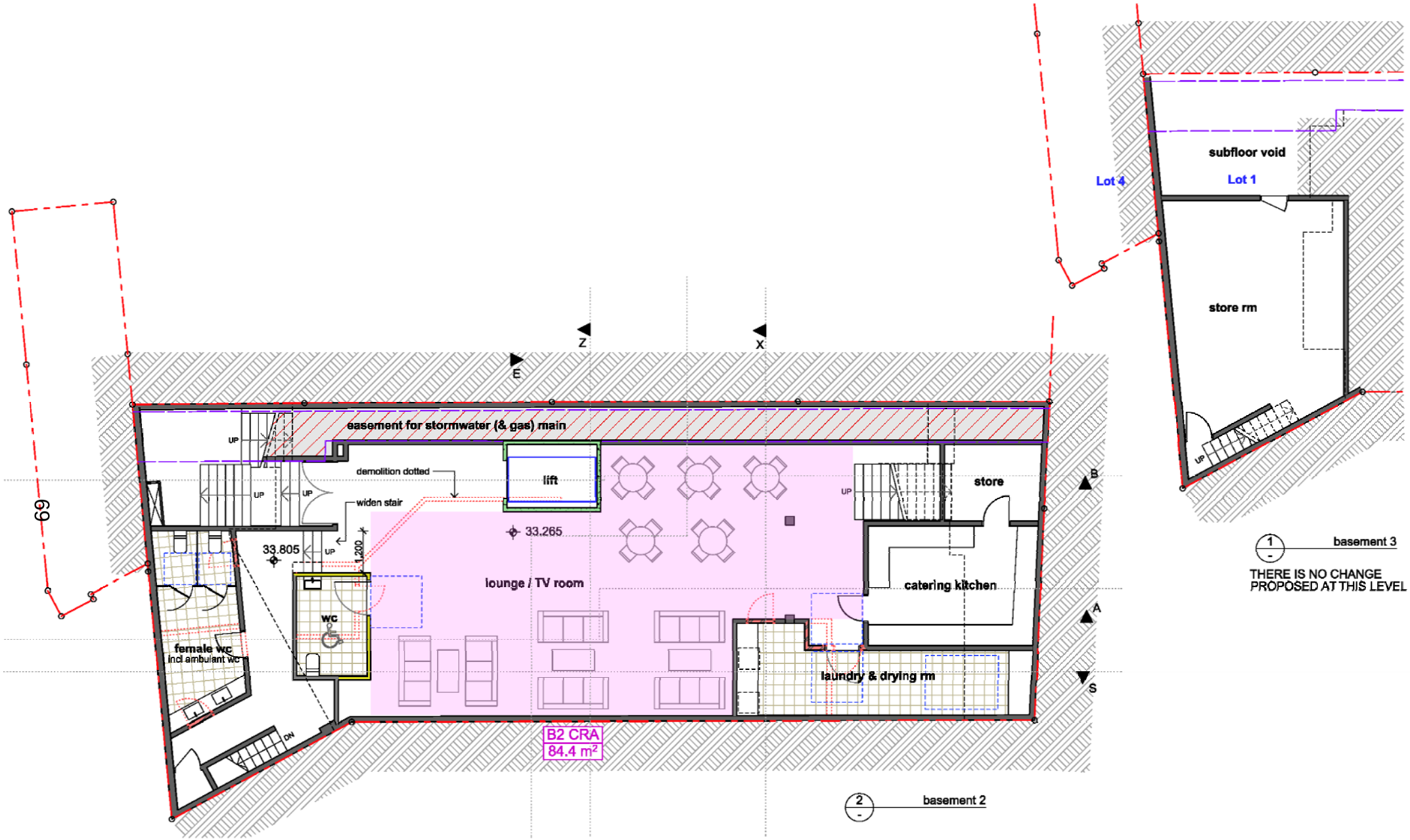
Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: existing floor & demolition plans 2

Scales: 1:200 **(@ A3)** **Drawing No.:** **DA03** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



REFER TO LEGEND & CALCULATIONS ON DRAWING DA07

Issue	Date	Notes
A	20/10/22	issued for DA

N

Architect: **James Burns**
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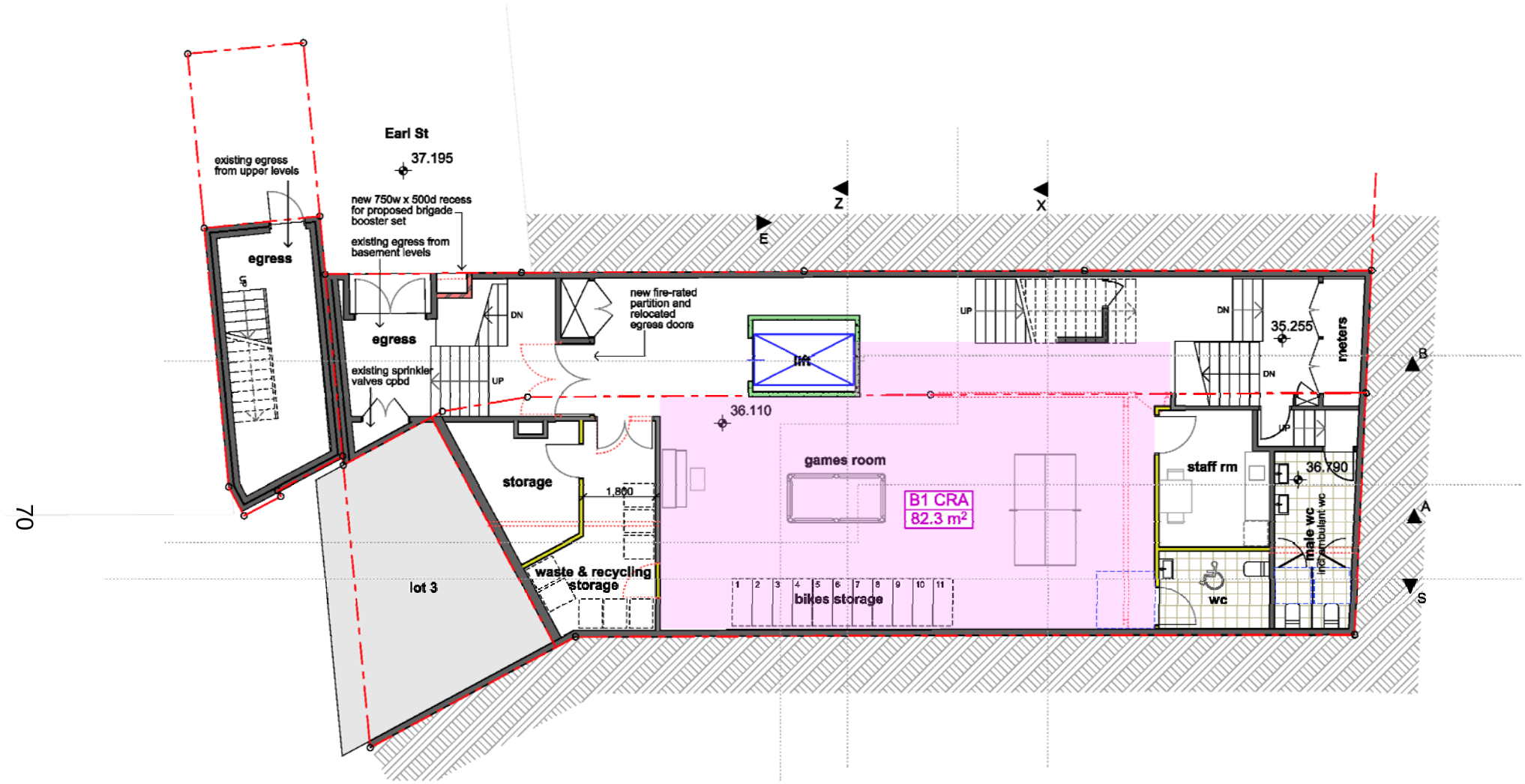
Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: basements B2 & B3 proposed plan

Scales: 1:100 (@ A3) **Drawing No.:** **DA04** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



REFER TO LEGEND & CALCULATIONS ON DRAWING DA07

Issue	Date	Notes
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Architect: **James Burns**
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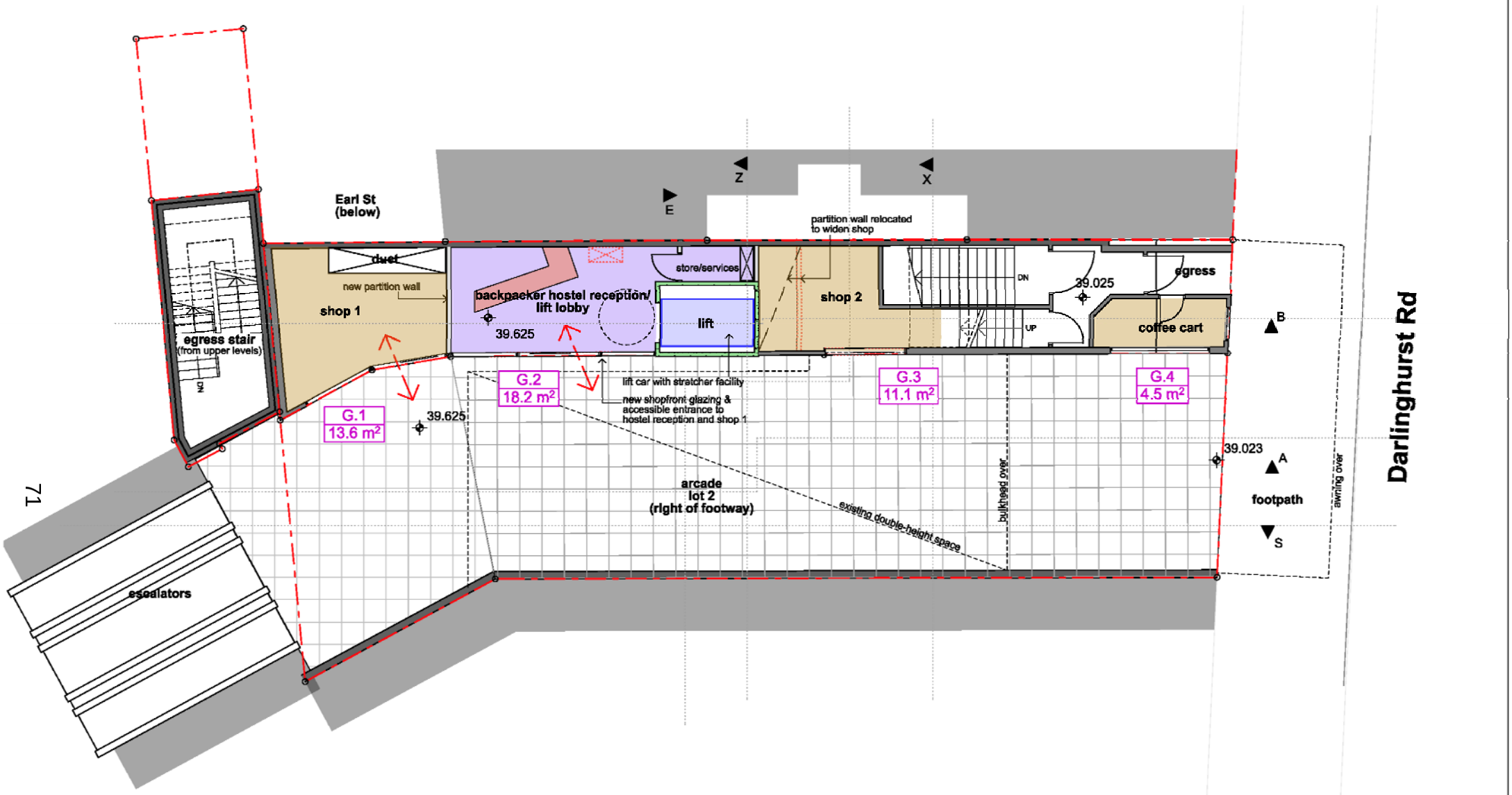
Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: basement B1 proposed plan

Scales: 1:100 (@ A3) **Drawing No.:** **DA05** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



REFER TO LEGEND & CALCULATIONS ON DRAWING DA07

Issue	Date	Notes
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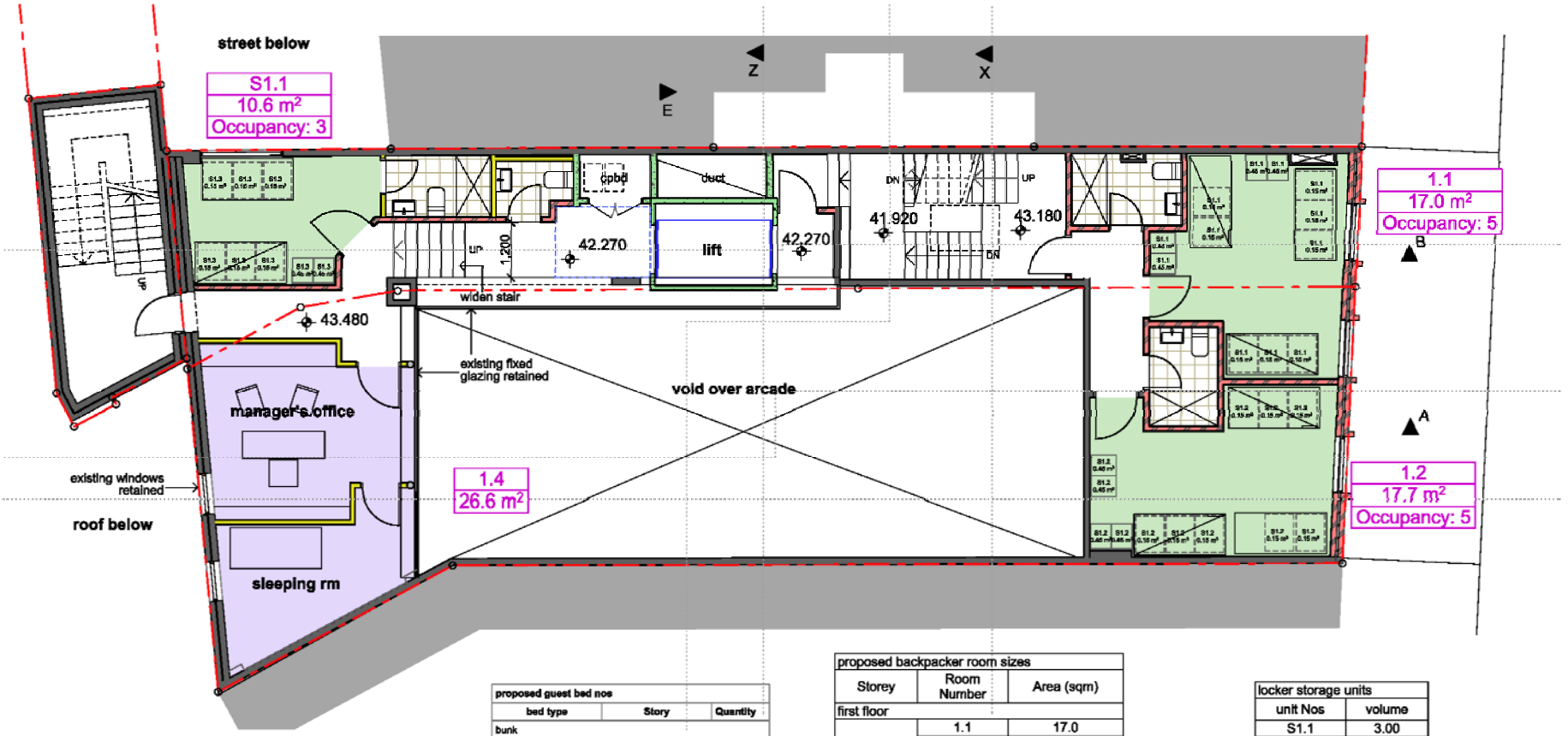
Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: arcade level proposed plan

Scales: 1:100 (@ A3) **Drawing No.:** **DA06** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



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PROPOSED COMMUNAL REACREATIONAL AREAS

Communal Recreation Areas		
Zone Name	Zone Number	Measured Area
B1 CRA	B1 CRA	82.3
B2 CRA	B2 CRA	84.4
L5 CRA	CRA 5.1	33.0
L5 CRA	CRA 5.2	37.0
Outdoor CRA	OCRA 5.0	18.4
		255.1 m²

PROPOSED BIKE PARKING PROVISION

DCP Section 3.11.3 Bike Parking
Table 3.5: On-site bike parking rates
Backpackers accommodation 1 per 4 staff 1 per 10 beds
required bike spaces = 1 x staff + 10 x guest = 11 total

proposed guest bed nos		
bed type	Story	Quantity
bunk		
	first floor	5
	second floor	13
	third floor	11
	level 4	10
		39
double bed		
	second floor	1
	third floor	1
	level 4	1
		3
single bed		
	first floor	3
	second floor	1
	third floor	2
	level 4	1
		7
		49

EXISTING/PROPOSED BACKPACKER BEDS

existing backpacker beds (maximum guests) = 94

proposed backpacker accommodation capacity
= 2 x (39 + 3) bunk or double beds + 7 x single beds
= 91 guests

proposed backpacker room sizes		
Storey	Room Number	Area (sqm)
first floor		
	1.1	17.0
	1.2	17.7
	S1.1	10.6
second floor		
	2.1	19.8
	2.2	13.0
	2.3	18.6
	2.4	13.0
	2.5	22.4
	2.6	17.9
third floor		
	3.1	16.7
	3.2	22.9
	3.3	13.2
	3.4	22.4
	3.5	17.9
level 4		
	4.1	6.9
	4.2	9.7
	4.3	13.9
	4.4	17.0
	4.5	13.1
	4.6	22.9

ROOM OCCUPANCY RATE:
(DCP requires 3.25m2 sleeping room floor area per guest)

locker storage units	
unit Nos	volume
S1.1	3.00
S1.2	3.00
S1.3	1.80
S2.1	3.60
S2.2	2.40
S2.3	3.00
S2.4	2.40
S2.5	3.60
S2.6	2.40
S3.1	3.00
S3.2	4.20
S3.3	2.40
S3.4	3.60
S3.5	2.40
S4.1	1.20
S4.2	1.20
S4.3	2.40
S4.4	3.00
S4.5	2.40
S4.6	3.60
	54.60 m³

LOCKER STORAGE CAPACITY:
(DCP requires 0.6m³ per guest)

Note: storage unit number = room number, eg, units S1.1 are located in Rm1.1

LEGEND
- single bed
- bunk bed (2 person)
- queen double bed (2 person)
- locker 450 x 550 x 1800h
- lockable unit under bed
- backpacker bedrooms
- communal recreational areas
- staff & reception areas

Issue	Date	Notes
A	20/10/22	issued for DA

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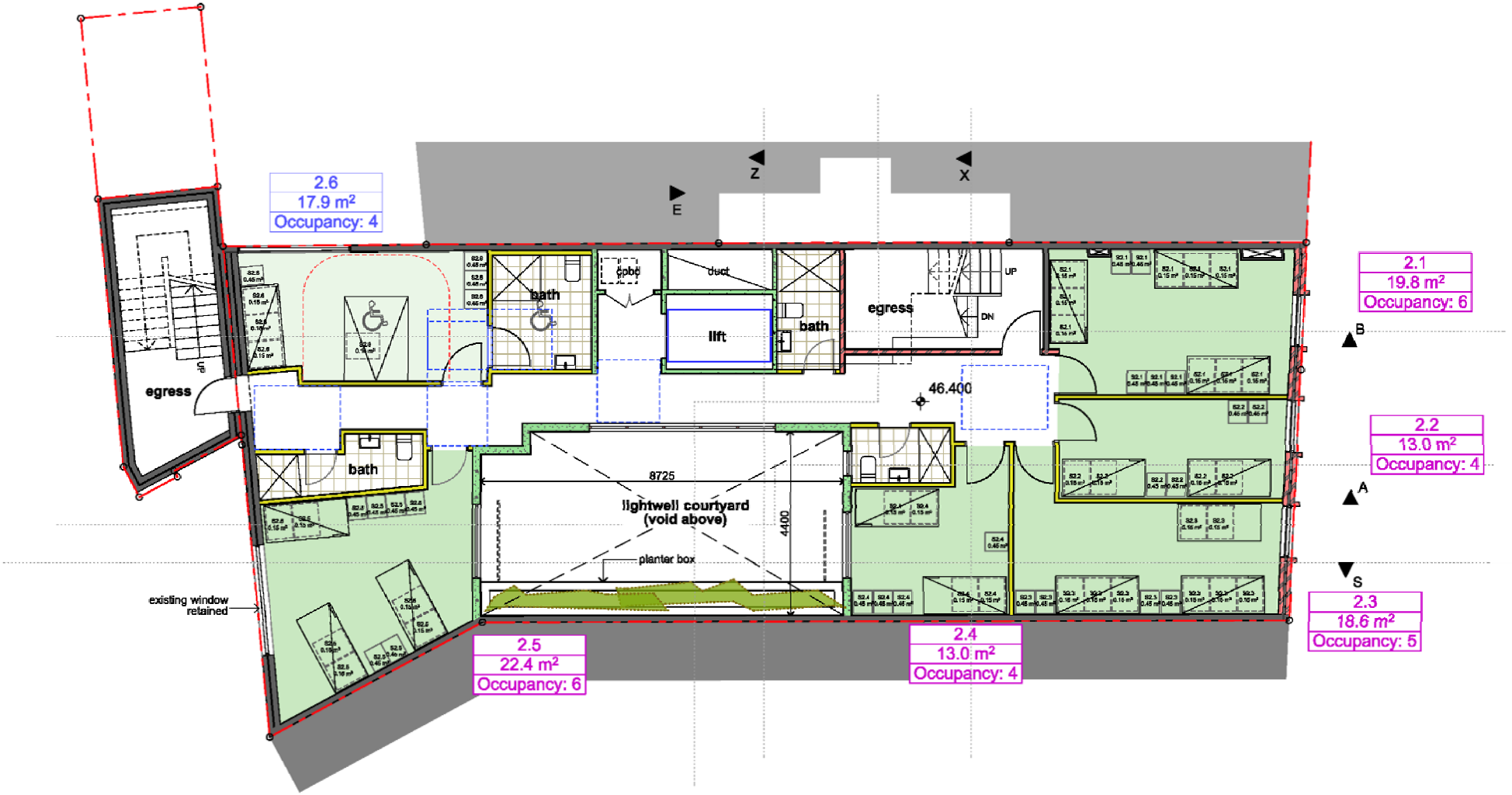
Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: first floor proposed plan & backpacker calculations

Scales: 1:100 (@ A3) **Drawing No.:** **DA07** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



REFER TO LEGEND & CALCULATIONS ON DRAWING DA07

Issue	Date	Notes
A	20/10/22	issued for DA

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Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: second floor proposed plan

Scales: 1:100 (@ A3) **Drawing No.:** **DA08** **Issue:** A

printed: 21/10/2022

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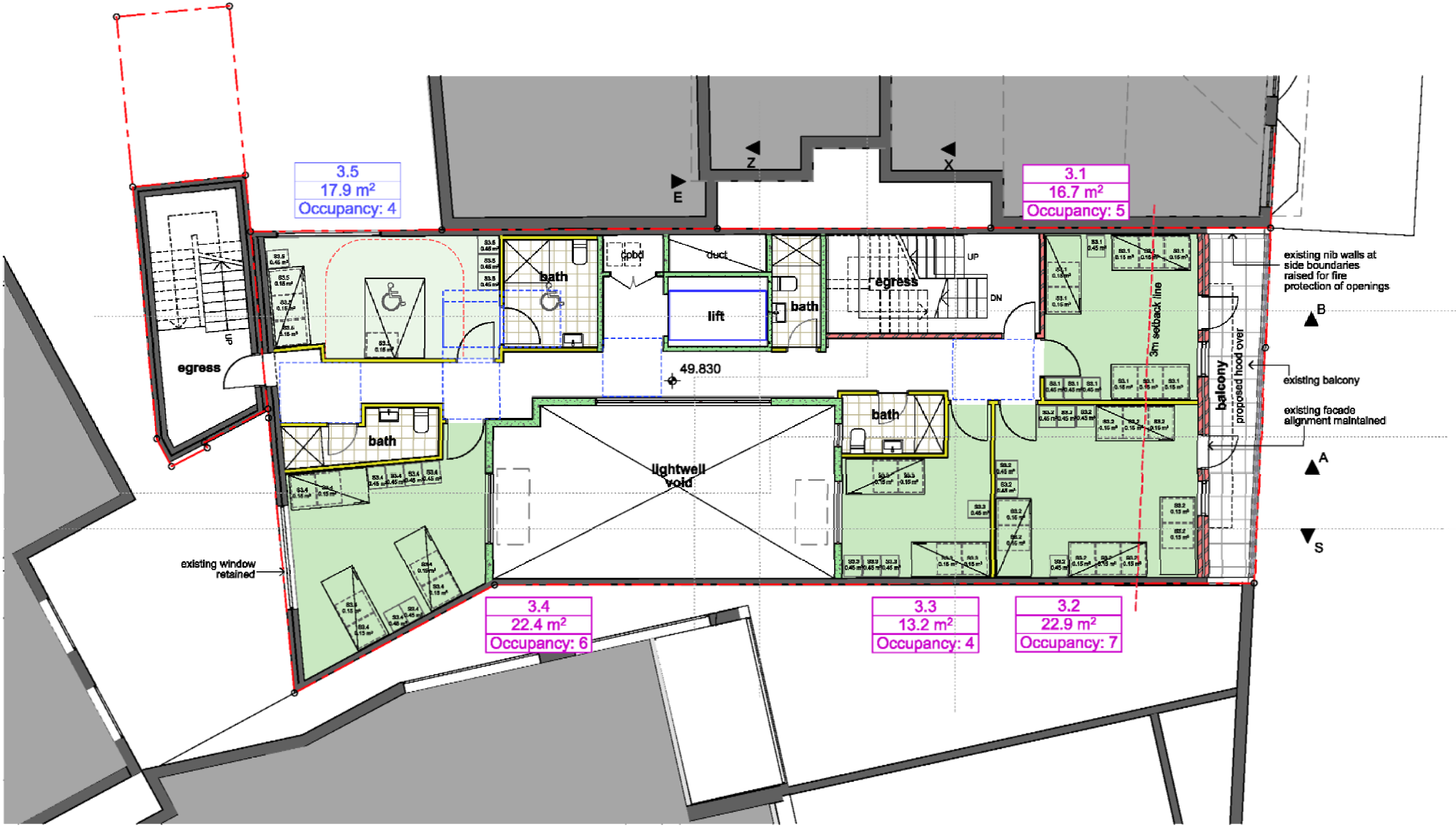

74

REFER TO LEGEND & CALCULATIONS ON DRAWING DA07

Issue	Date	Notes
A	20/10/22	issued for DA

Architect: **James Burns**
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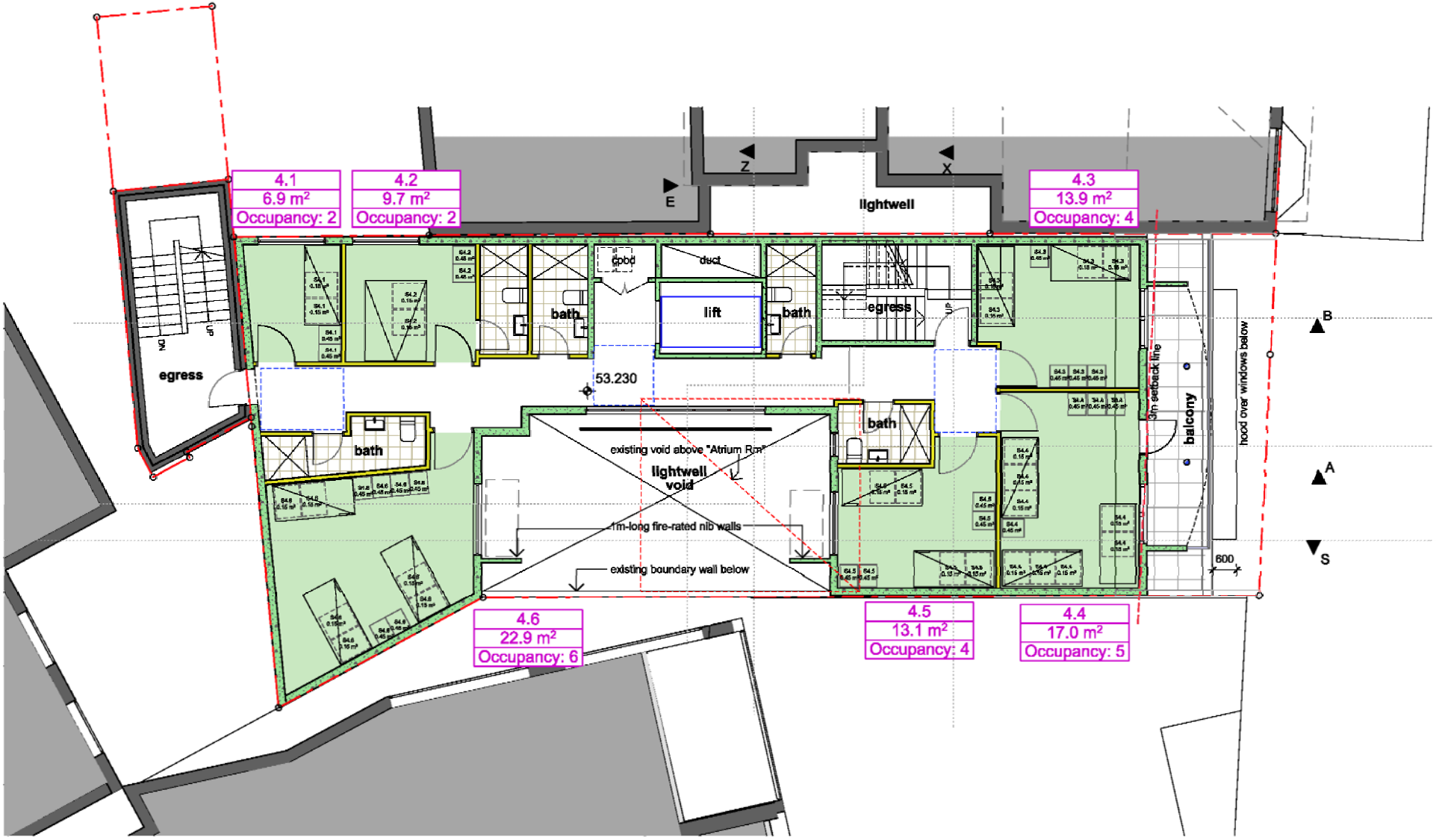
Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: third floor proposed plan

Scales: 1:100 (@ A3) **Drawing No.:** **DA09** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



75

REFER TO LEGEND & CALCULATIONS ON DRAWING DA07

Issue	Date	Notes
A	20/10/22	issued for DA

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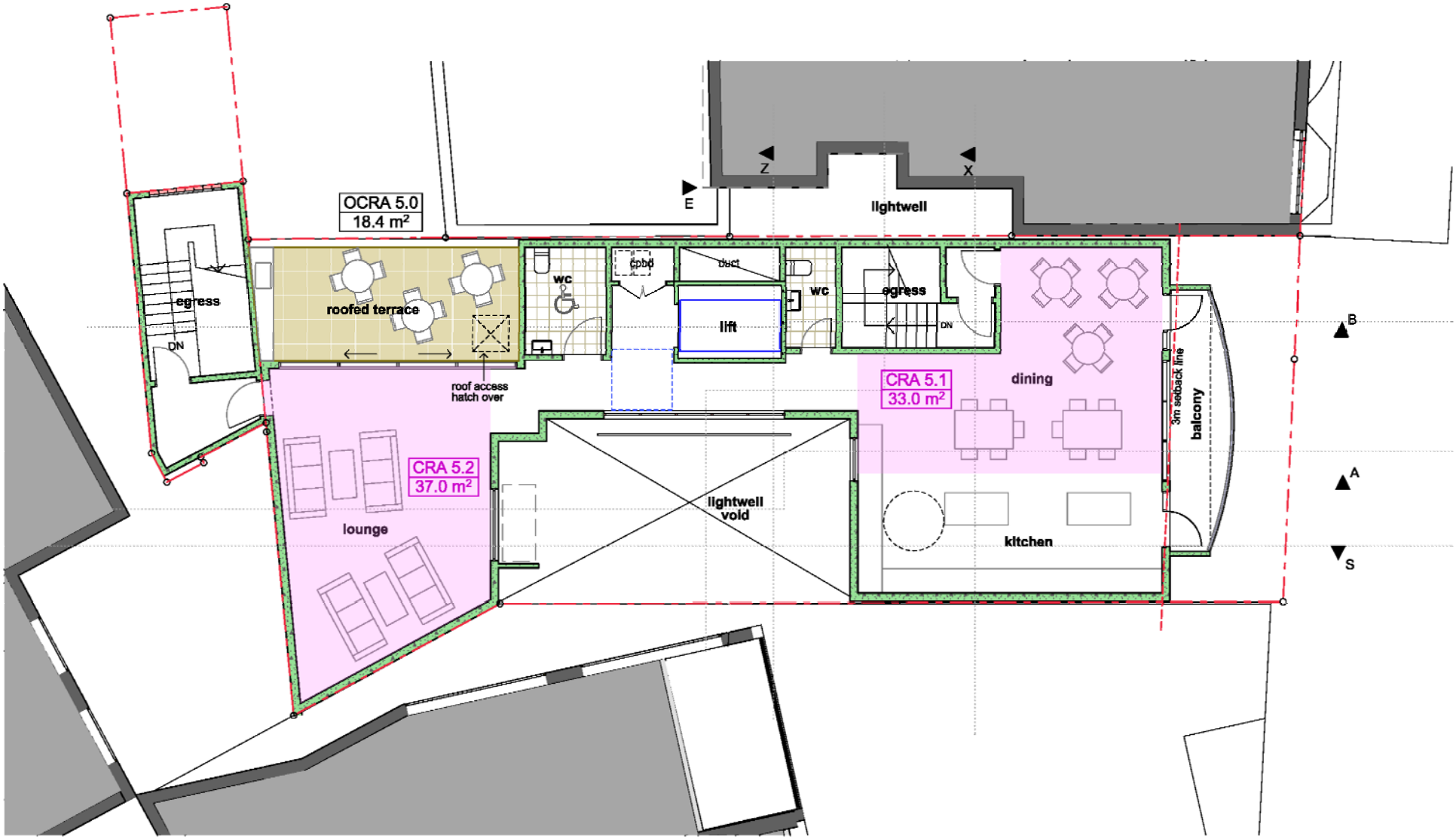
Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: **proposed level L4 plan**

Scales: 1:100 (@ A3) **Drawing No.:** **DA10** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



76

REFER TO LEGEND & CALCULATIONS ON DRAWING DA07

Issue	Date	Notes
A	20/10/22	issued for DA

N

Architect: **James Burns**
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Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: proposed level L5 plan

Scales: 1:100 (@ A3) **Drawing No.:** **DA11** **Issue:** A

printed: 21/10/2022

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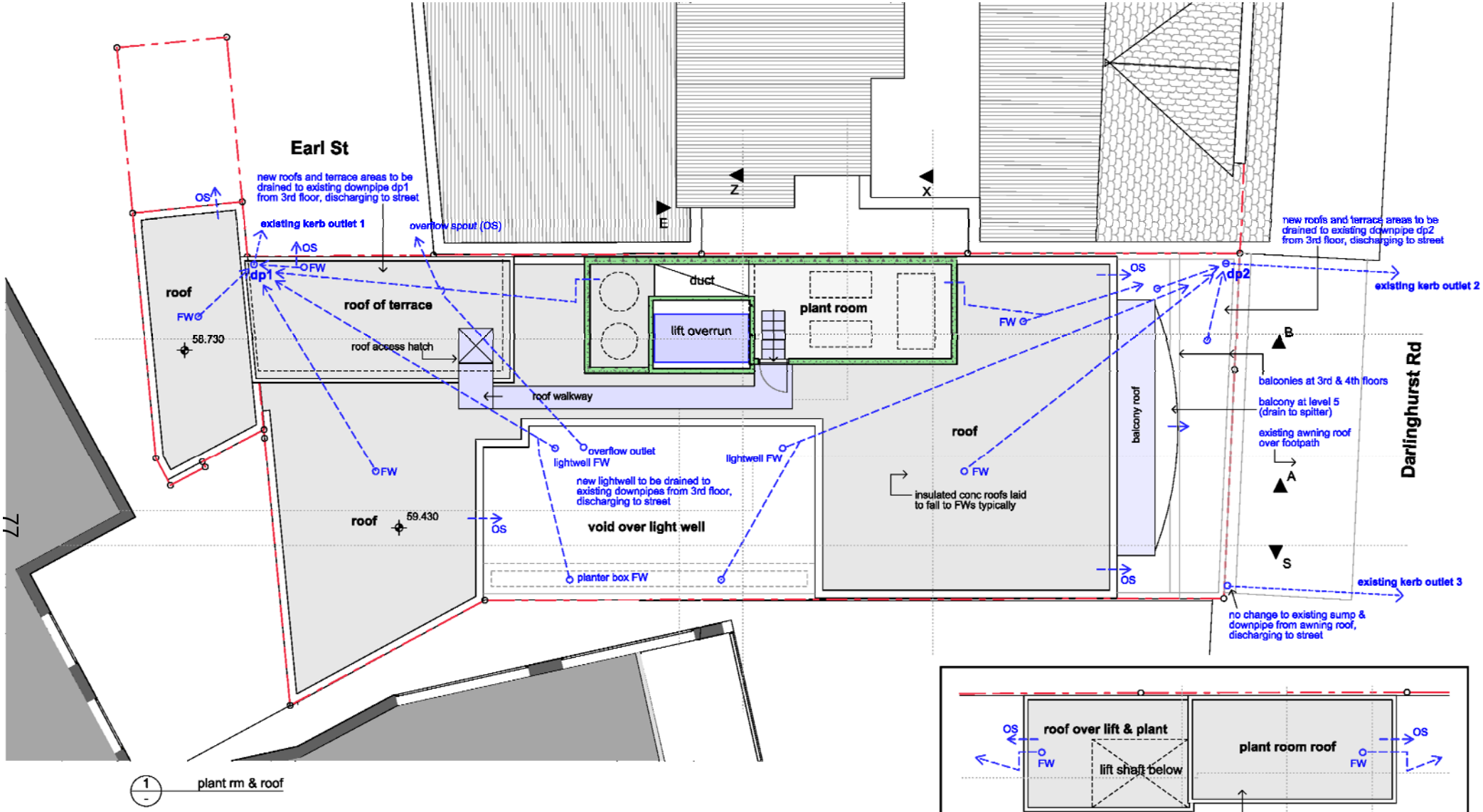

STORMWATER DRAINAGE CONCEPT:

The existing building covers the entire site (lots 1 & 5) and is drained by existing downpipes (dp 1 & 2) at front and rear to discharge to kerb outlets as shown. There is no increase in the roof area therefore these existing downpipes are deemed to have adequate capacity for the proposed building additions. Therefore, new roof, terrace and balcony areas are to be drained to the existing downpipes. The awning roof over the footpath is unchanged. The stormwater drainage layout is to be confirmed by a hydraulic engineer at CC stage.

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email burnsjf@optusnet.com.au

Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: **proposed plant rm & roof plans and stormwater concept plan**

Scales: 1:100 (@ A3) **Drawing No.:** **DA12** **Issue:** A

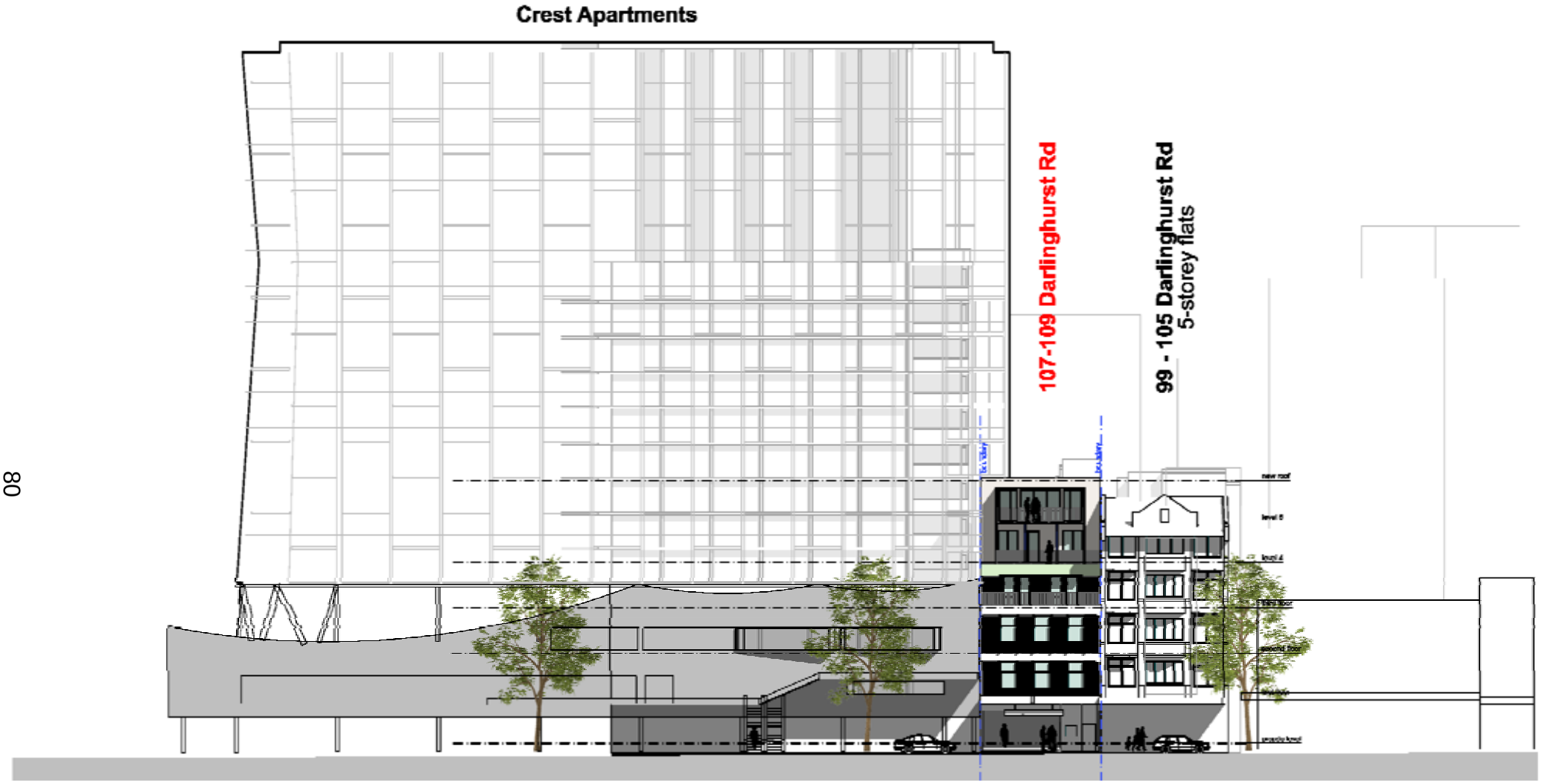
printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.

Attachment A2

Selected Drawings

Crest Apartments



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Project: proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224

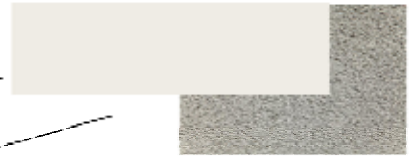
Drawing Title: streetscape elevation - Darlinghurst Rd

Scales: 1:300 (@ A3) | Drawing No.: DA13 | Issue: A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.





texture coat & colour



metal ballustrades

metalwork and window frames colour



face brick

refer to schedule of exterior finishes & colours



existing street view

Issue	Date	Notes
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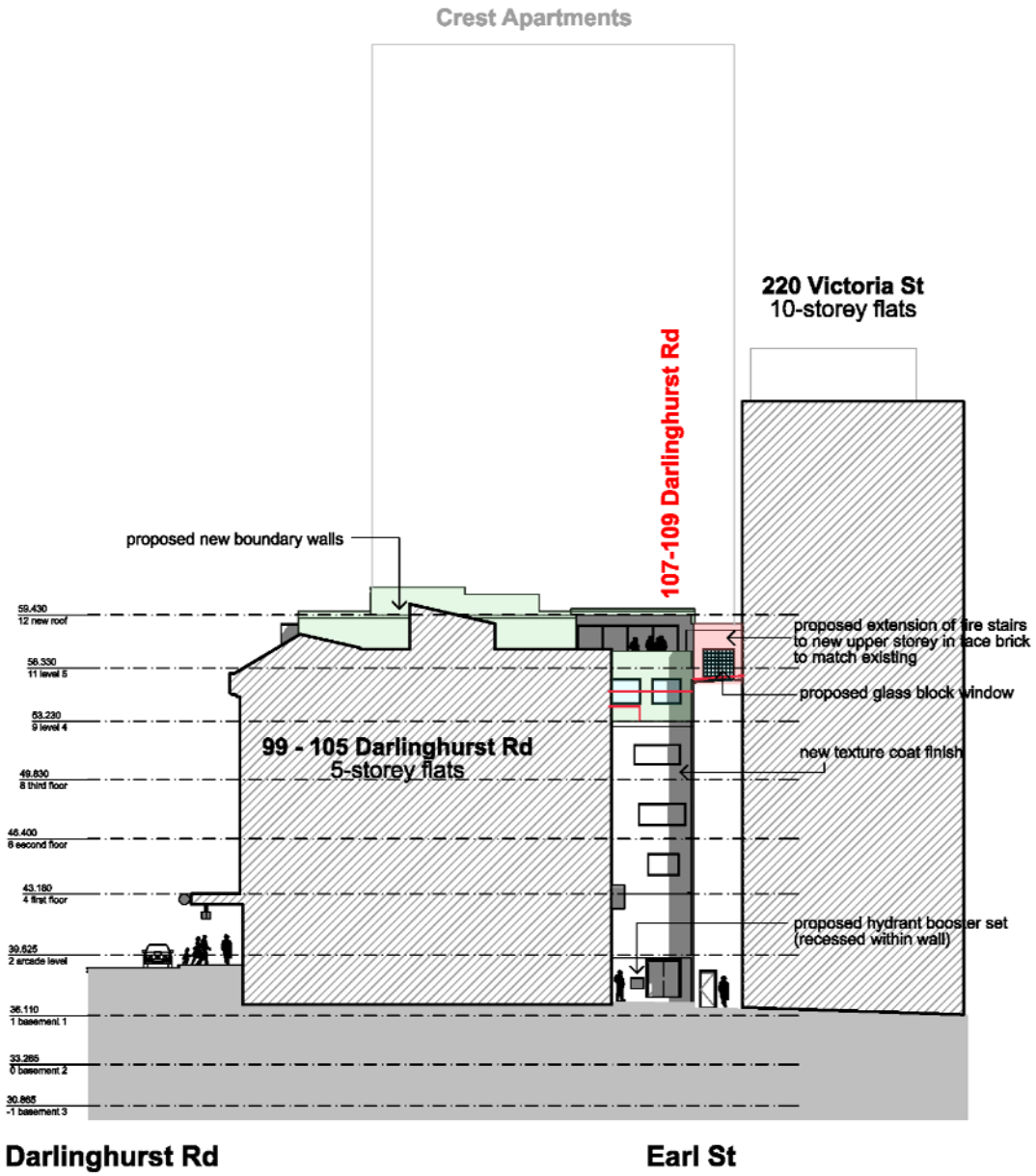
Project: proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224

Drawing Title: east (front) elevation

Scales: 1:100 (@ A3) **Drawing No.:** DA14 **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



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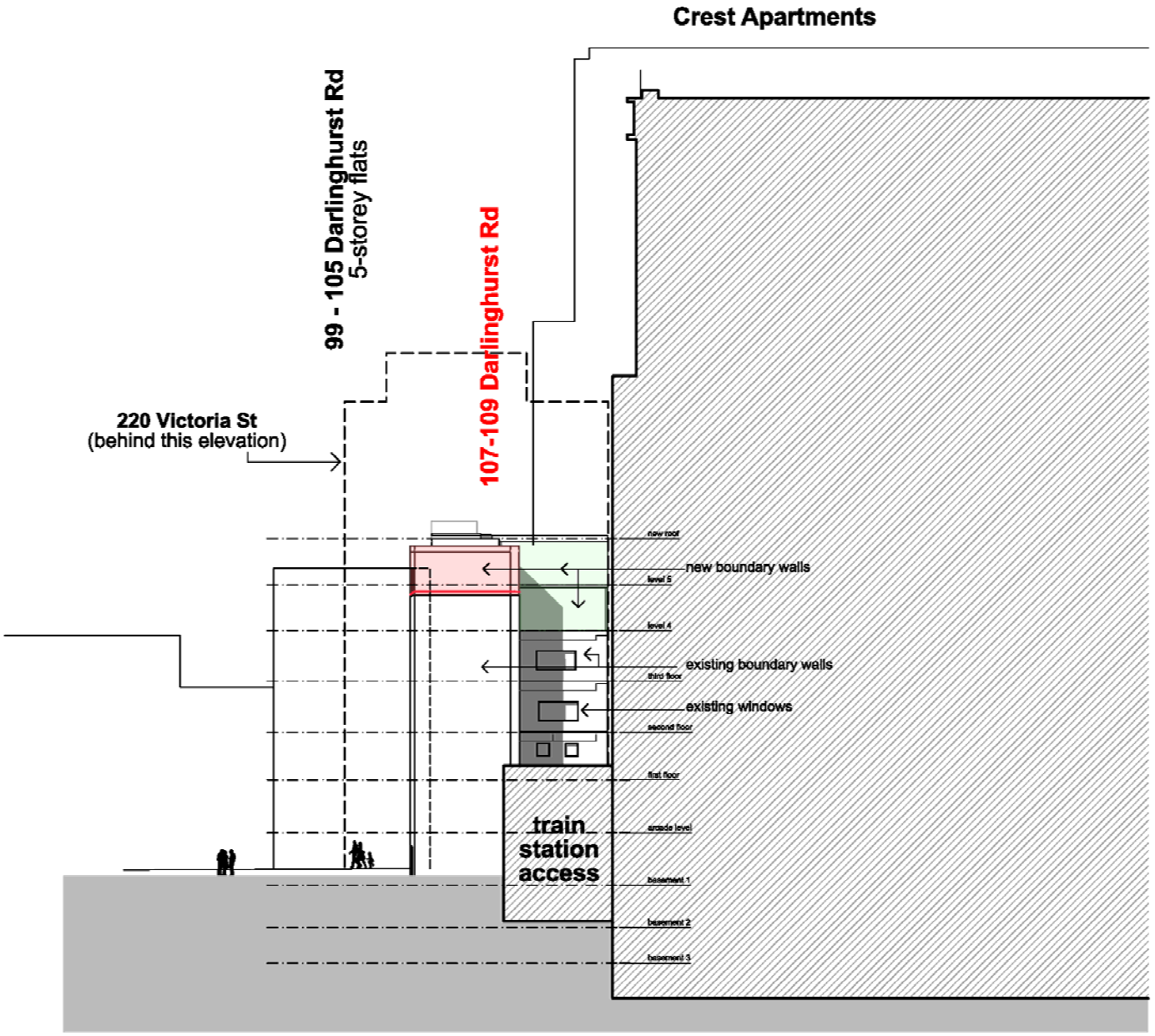
Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: streetscape elevation - Earl St

Scales: 1:300 (@ A3) **Drawing No.:** **DA15** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



Issue	Date	Notes
A	20/10/22	issued for DA

Architect: **James Burns**
NSW architect registration No. 8404
abn 32 188 158 681
89 Avoca St, Randwick 2031
ph (02) 9398 6841 mob 0402 707 665
email burnsjf@optusnet.com.au

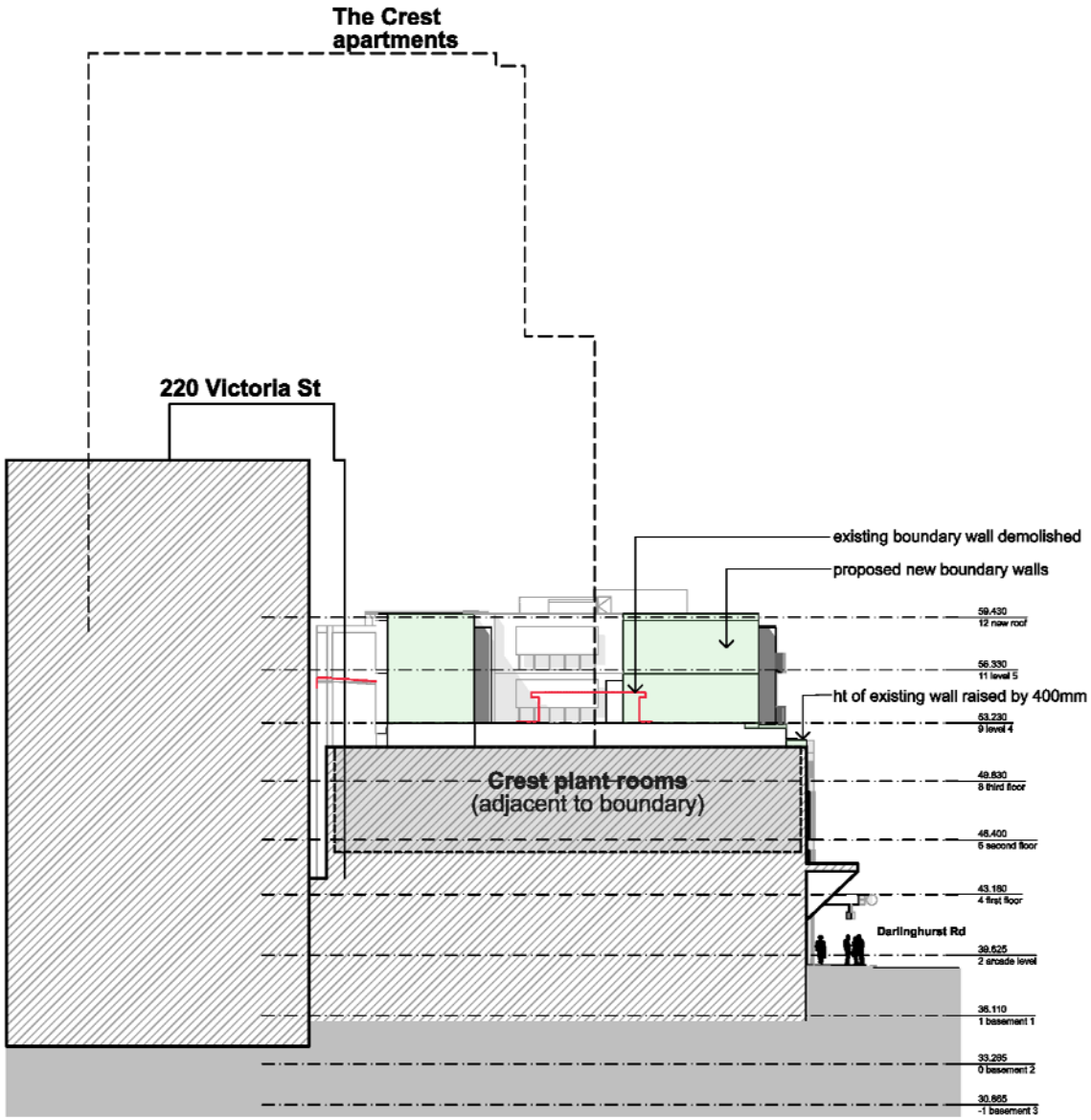
Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: west (Earl St) elevation

Scales: 1:300 **(@ A3)** **Drawing No.:** **DA16** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



Issue	Date	Notes
A	20/10/22	issued for DA

Architect: **James Burns**
NSW architect registration No. 8404
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89 Avoca St, Randwick 2031
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email burnsjf@optusnet.com.au

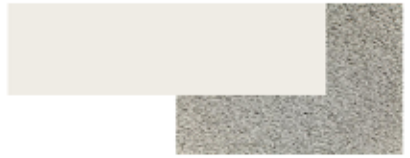
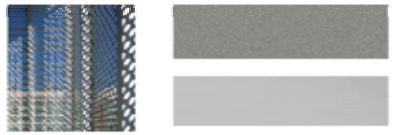
Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: south elevation

Scales: 1:300 (@ A3) **Drawing No.:** **DA17** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.

Building element	Material	Finish	Colour	Image
walls on eastern facade at 1st - 3rd floor levels	brick	face brick	Bowral 76 blue	
beams on eastern facade boundary & lightwell walls levels 4 & 5 external walls existing rendered walls on northern facade (Earl St elevation)	In situ concrete permanent formwork concrete walls, Ritek XL Thermal or similar	texture coat (Granosite, Acratex, or similar)	Dulux "Natural White"	
windows and glazed doors balustrades & balcony metalwork	aluminium framing suite, nom 100 x 40mm glass aluminium or galvanised steel	powdercoat	Duratec "Lunar Eclipse Satin" tinted glass on east elevation "Smoke Grey"	
rear egress stair windows	fire-rated glass blocks		clear glass	
external walls of rear egress stair	brick	face brick	to match existing	
privacy screens to lightwell windows	perforated metal in aluminium or stainless steel	powdercoated aluminium brushed stainless steel	Duratec Eternity "Pewter Pearl Satin"	
lightwell floor	concrete topping	steel trowel finish		
lightwell planting	Boston ivy (Parthenocissus tricuspidata)			

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Issue	Date	Notes
A	20/10/22	issued for DA

Architect: James Burns
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Project: proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224

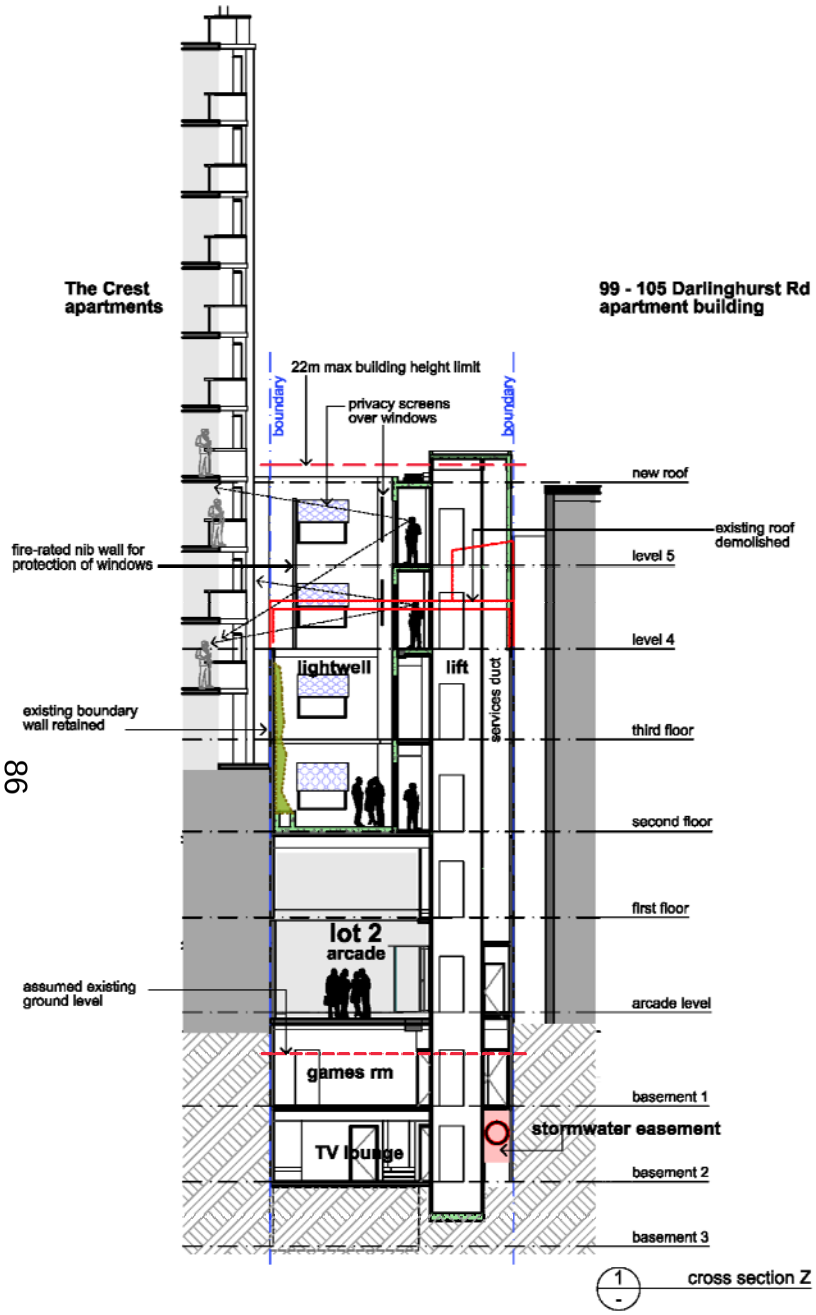
Drawing Title: Indicative external finishes and colours

Scales: (@ A3)

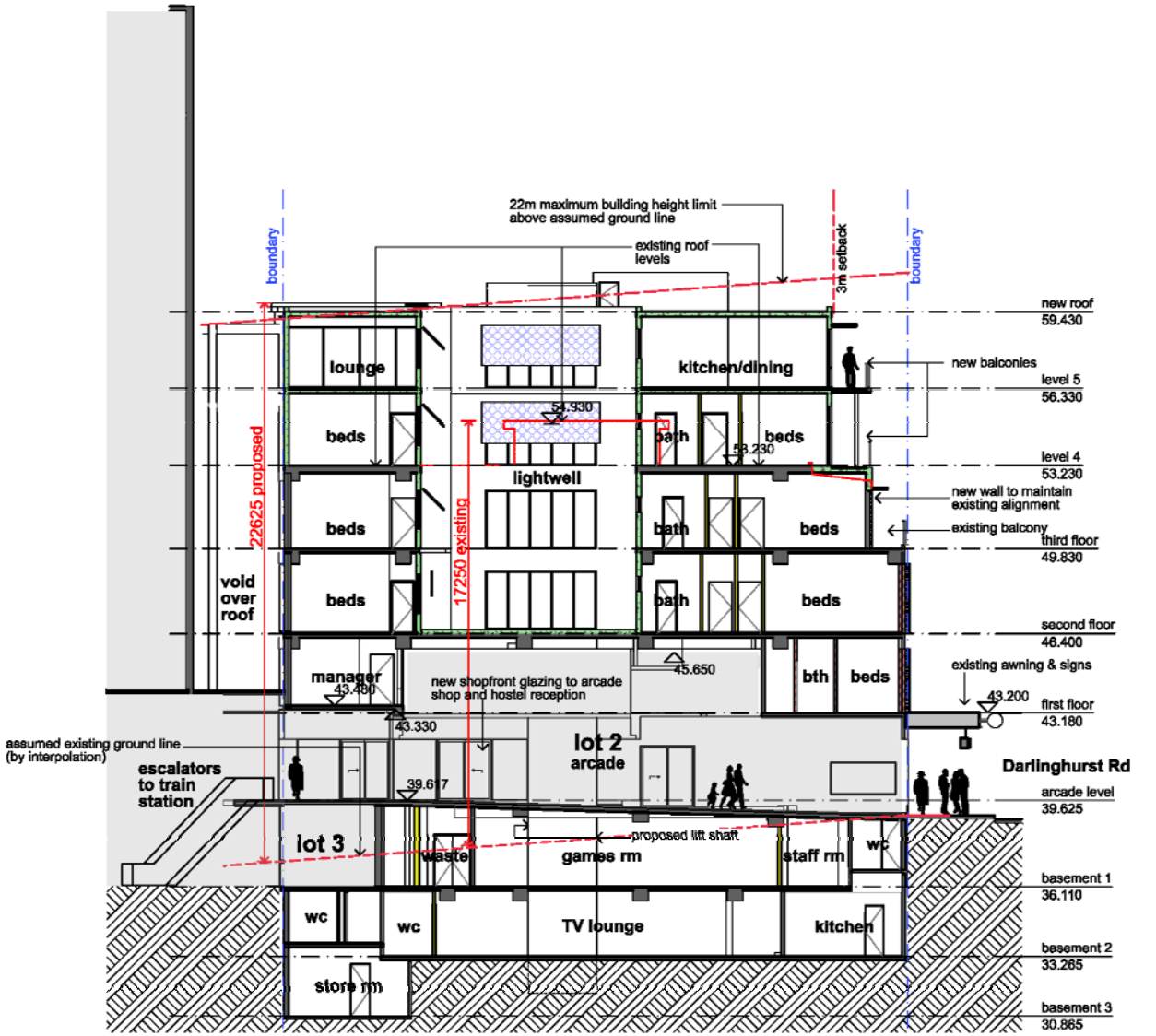
Drawing No.: DA18 **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



1 - cross section Z



2 - long section A through arcade

Issue	Date	Notes
A	20/10/22	issued for DA

Architect: **James Burns**
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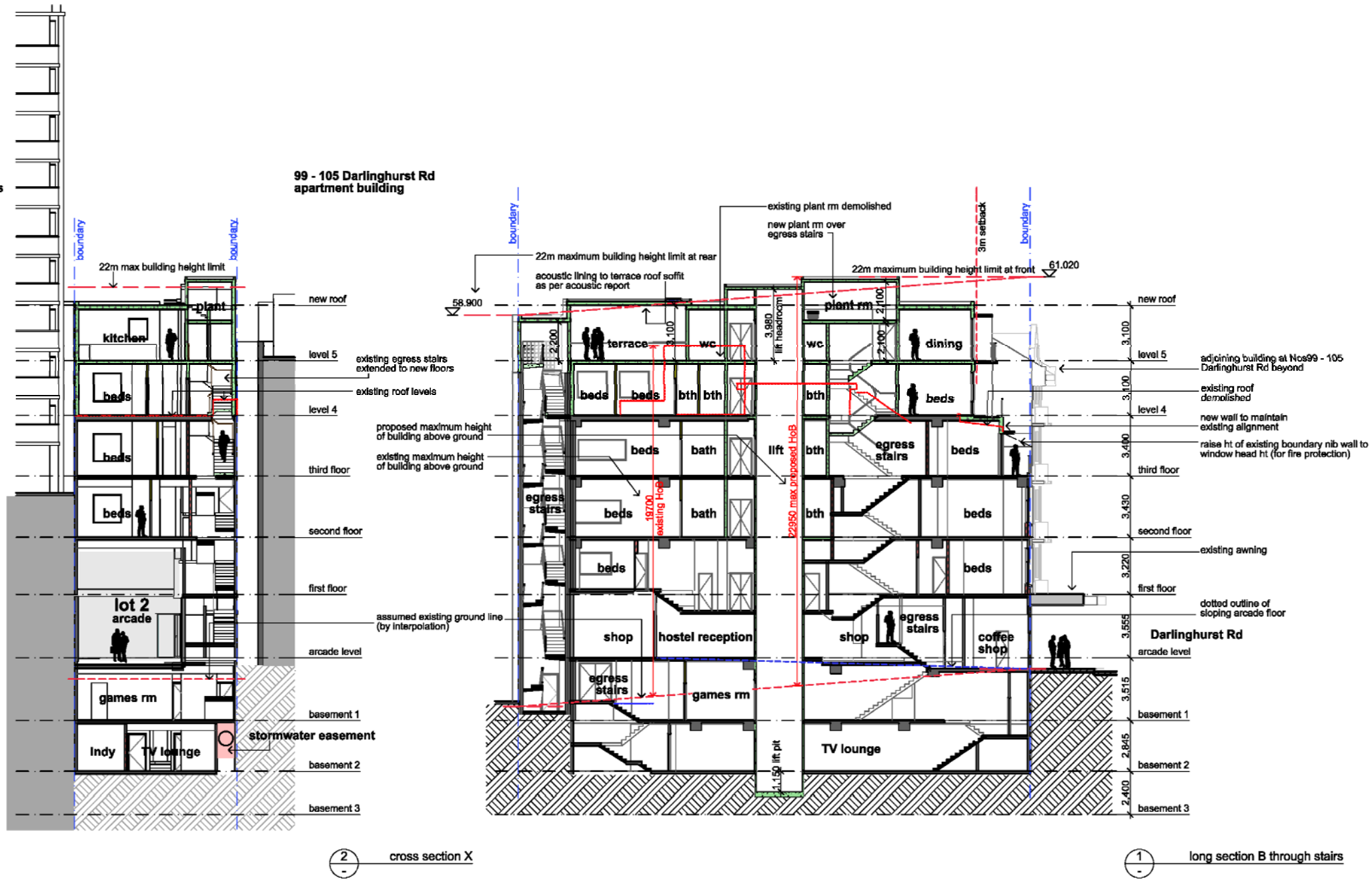
Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: sections 1

Scales: 1:200 (@ A3) **Drawing No.:** **DA19** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



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Issue	Date	Notes
A	20/10/22	issued for DA

Architect: **James Burns**
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abn 32 188 158 681
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ph (02) 9398 6841 mob 0402 707 665
email burnsjf@optusnet.com.au

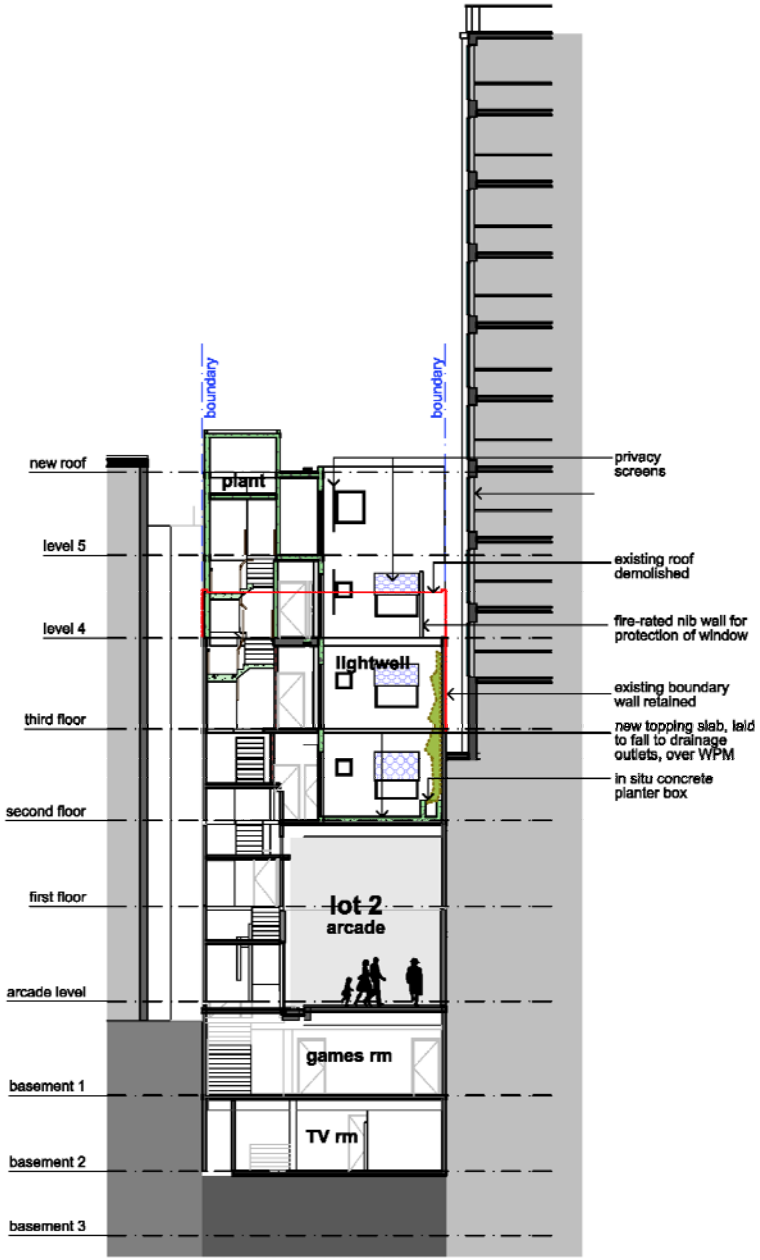
Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: sections 2

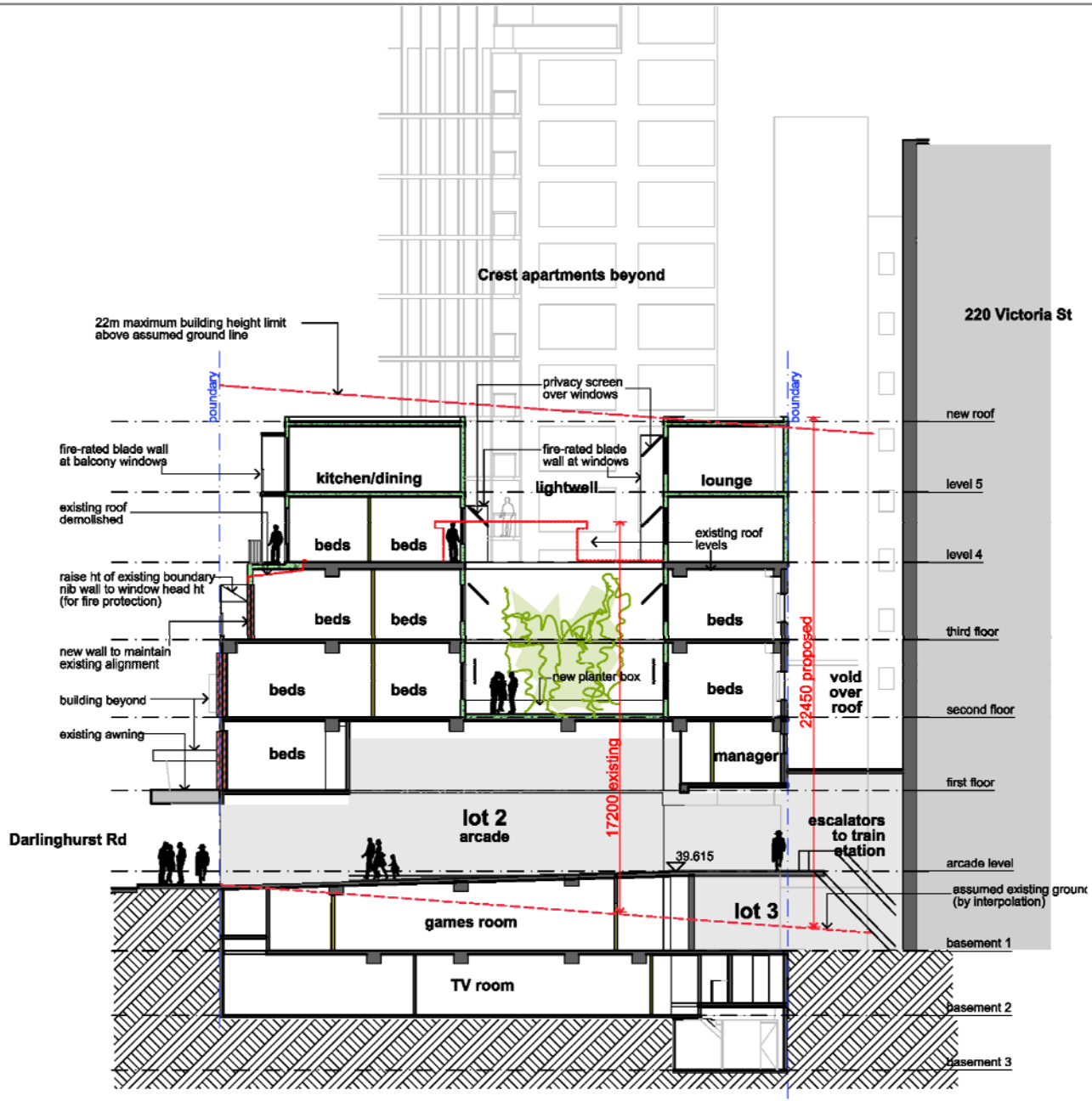
Scales: 1:200 (@ A3) **Drawing No.:** **DA20** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



1 - X section looking east



2 - section S looking south

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Issue	Date	Notes
A	20/10/22	issued for DA

Architect: **James Burns**
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abn 32 188 158 681
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email burnsjf@optusnet.com.au

Project: **proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224**

Drawing Title: sections 3

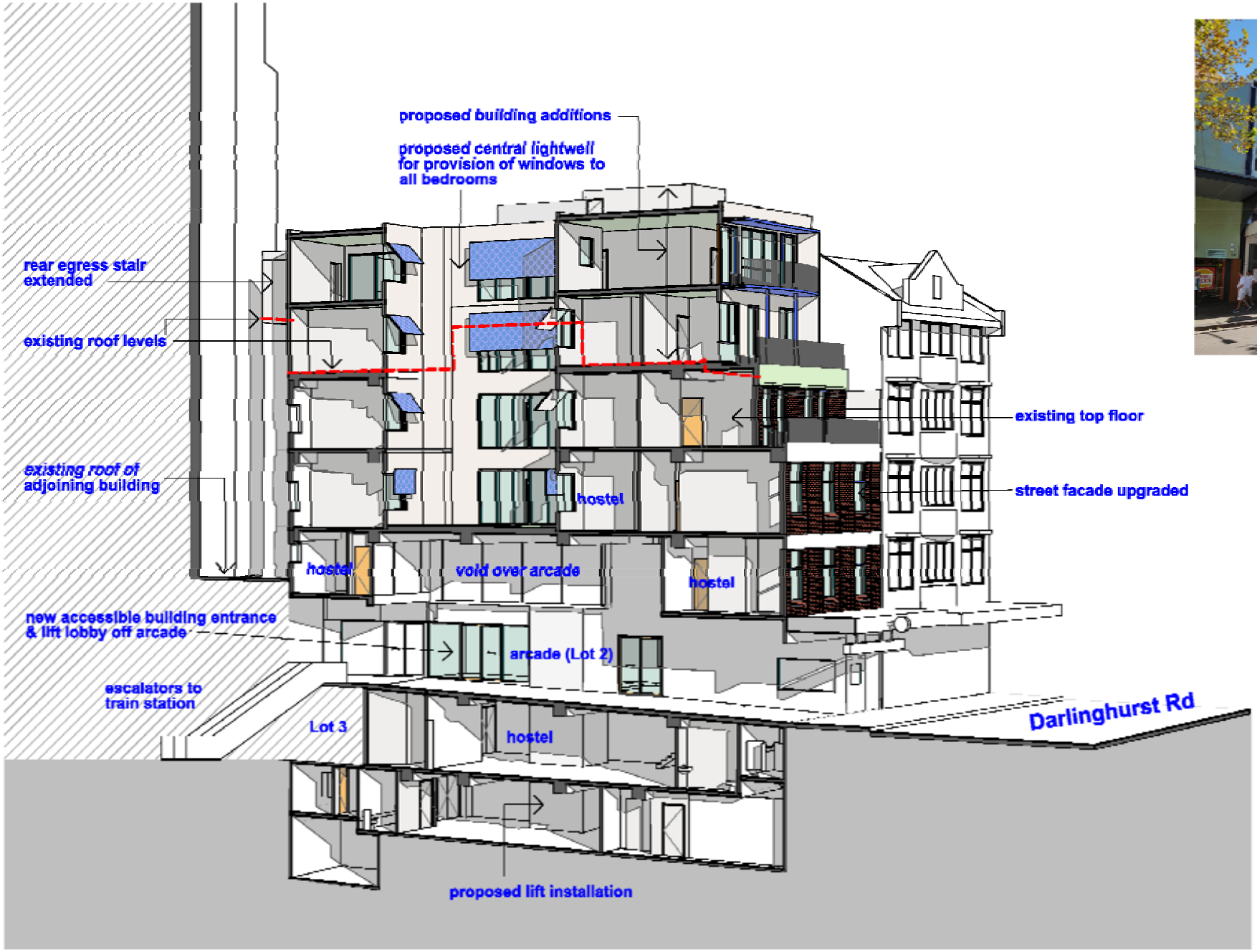
Scales: 1:200 (@ A3) **Drawing No.:** **DA21** **Issue:** A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.



existing building



68

Issue	Date	Notes
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abn 32 188 158 681
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Project: proposed alterations & additions to existing mixed use building at No107 - 109 Darlinghurst Rd Potts Point 2011 lots 1 & 5 /-/ DP 802224

Drawing Title: 3D cut-away of proposal

Scales: (@ A3)

Drawing No.: DA24

Issue: A

printed: 21/10/2022

Note: Verify all dimensions on site before commencing construction. Use figured dimensions only - do not scale. If in doubt, ask the architect for clarification.

Attachment B

Clause 4.6 Variation Request - Floor Space Ratio

Request to Vary FSR Under Clause 4.6 of Sydney Local Environmental Plan 2012

Alterations and Additions to Existing Backpackers Accommodation at 107 - 109 Darlinghurst Road, Potts Point

October 2022



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Introduction

This request made under Clause 4.6 of the Sydney Local Environmental Plan 2012 accompanies a proposal for alterations and additions at 107 – 109 Darlinghurst Road, Potts Point. The proposal involves a variation to Clause 4.4 FSR under the Sydney LEP 2012. The proposed alterations and additions will result in an FSR of 4.02:1 (1,038sqm) which exceeds the maximum FSR of 2:1 (516.4sqm) by 101% (521.6sqm). This request to vary the development standard is considered appropriate for the proposal as will be discussed below.

The Site and Surrounding Area

The subject site at 107 - 109 Darlinghurst Road, Potts Point is a broadly rectangular shape with an area of 258.2sqm and consists of Lots 1 and 5 in DP 802224. Lot 1 has a size of 239.1 frontage of 9.25m to Darlinghurst Road and a rear aspect of 4.6m to Earl Place. The site has an average depth of 28m. Lot 5 has a size of 19.1sqm and contains fire escape stairs for the building. The site is burdened by a number of easements, including rights of footway through the site to Kings Cross Station and fire escape access for users to Earl Street. There are easements for services and sewer detailed on the DP which accompanies the application.

The site contains also contains Lot 2 in DP 802224 which contains the entrance way to the Kings Cross Station, contained on the ground floor / part of the first-floor void area. Lot 1 is located on the north-western side of Darlinghurst Road and currently accommodates a 7 storey building which includes 3 storeys of basement. The existing building was previously used as a backpackers accommodation, however has been vacant since the onset of COVID-19.

Adjoining the site to the north is a five storey mixed use building, and to the south is the 20 storey Omnia residential flat building with retail on the ground level. The surrounding area is generally characterised by retail on the ground floor and other uses on above levels.

The Proposed Variation

The Sydney LEP 2012 include provisions for exception to development standards as follows.

4.6 Exceptions to development standards

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

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

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

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

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

(a) the consent authority is satisfied that:

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

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

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

In accordance with Clause 4.6 (4)(a)(i), this written request addresses the matters required to be demonstrated by Clause 4.6 (3) relating to the proposed variation to the FSR.

The maximum FSR is 2:1 (516.4sqm). The existing FSR is 3.56:1 (919sqm) and the proposed FSR has increased to 4.02:1 (1,038sqm). Therefore, the additional GFA is 119sqm, the existing variation is 78% (402.6sqm) and the proposed variation is 101% (521.6sqm). Figures 1 to 3 below show the extent of the variation.

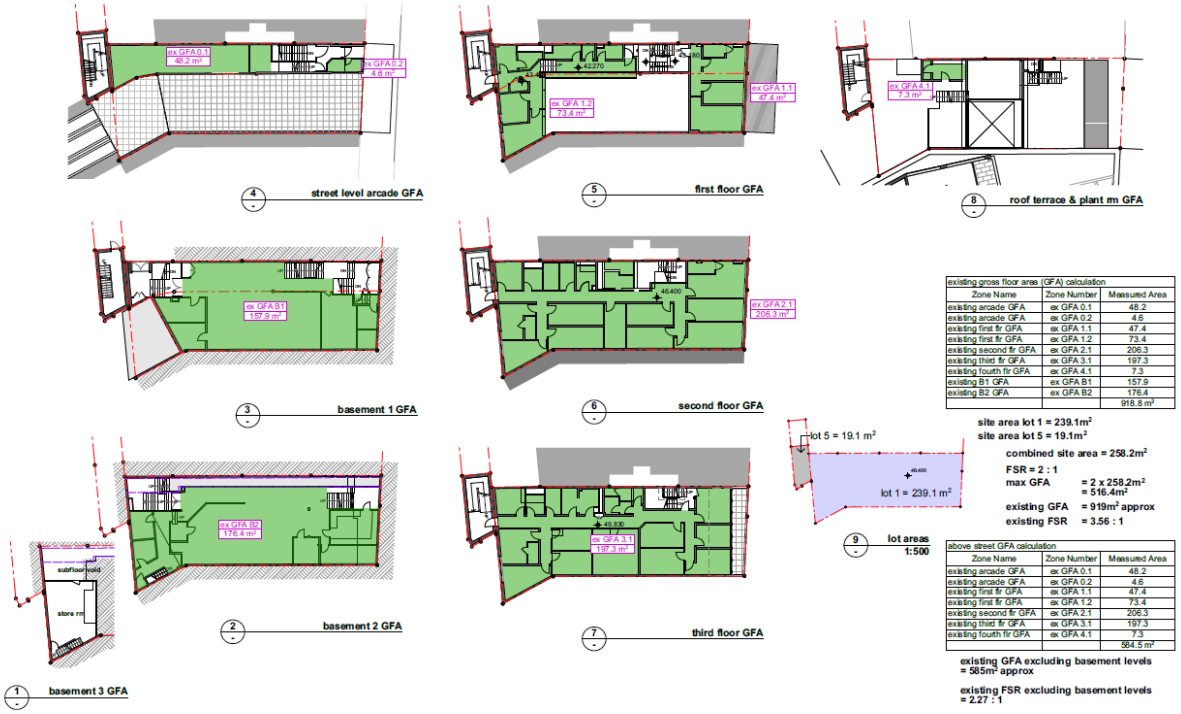

Figure 1: Existing GFA

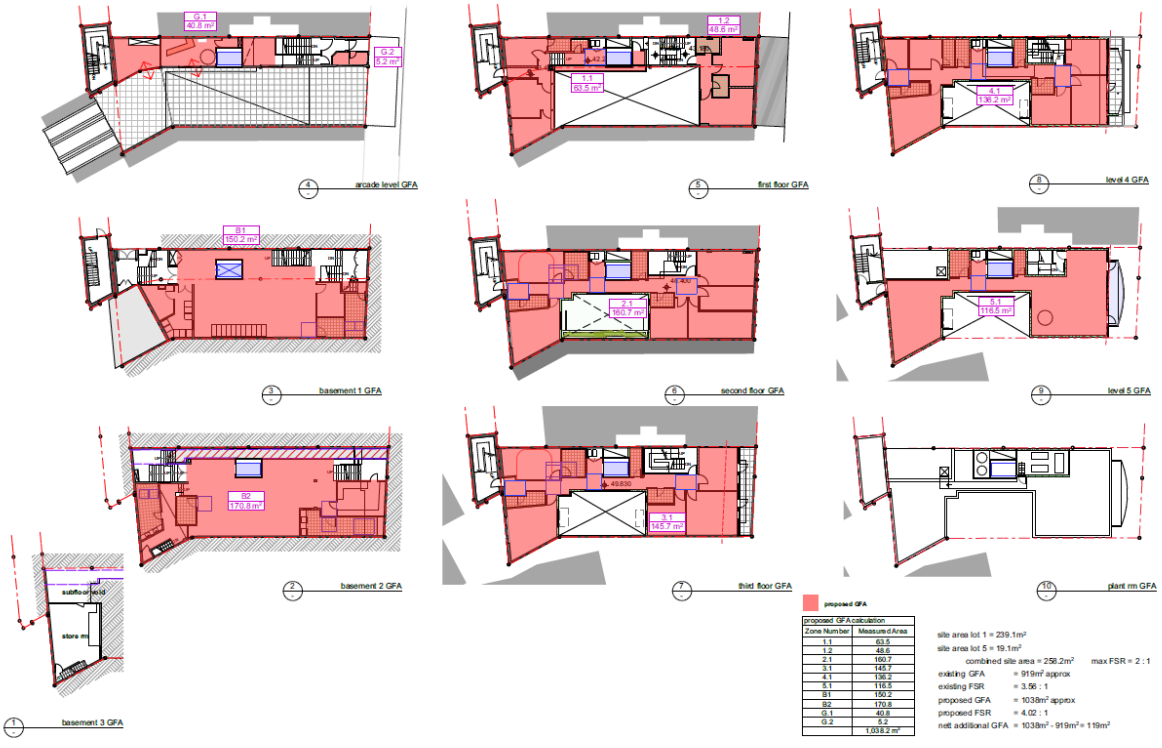

Figure 2: Proposed GFA

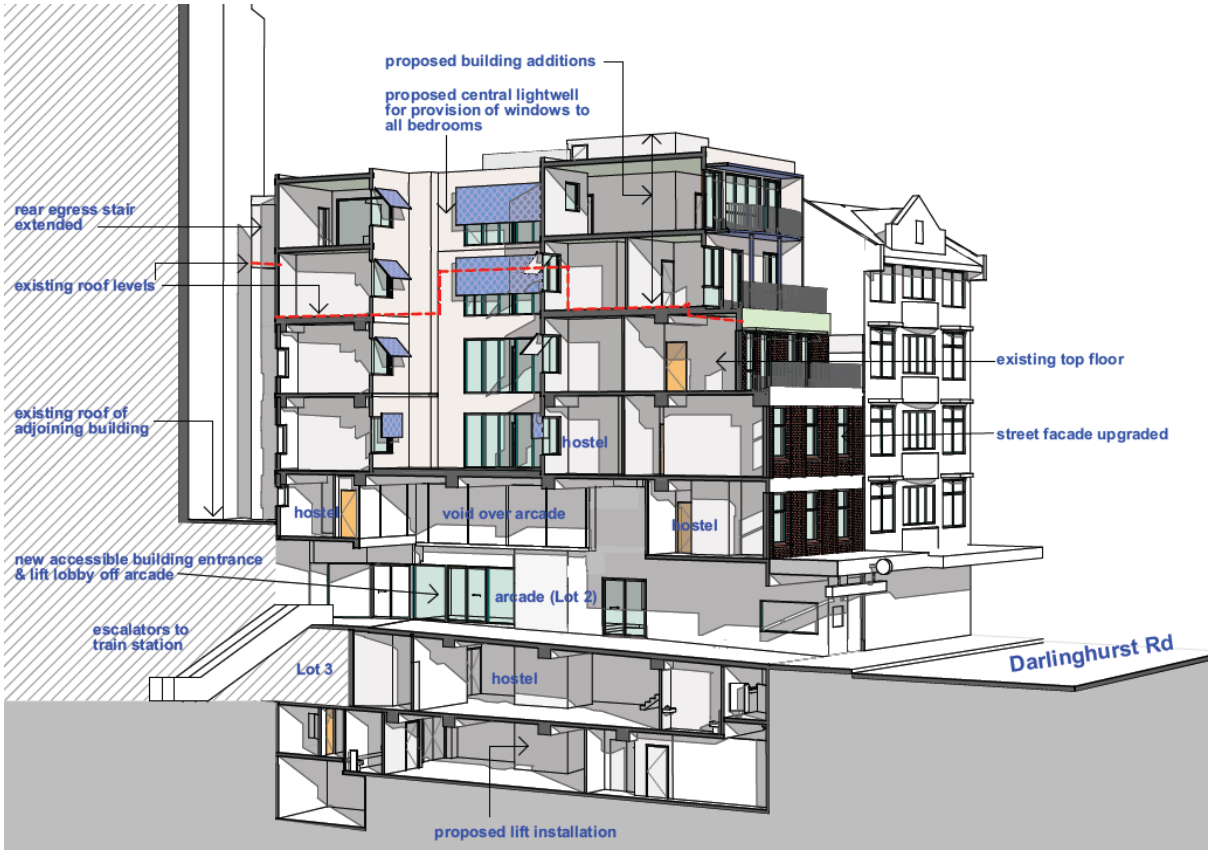

Figure 3: 3D perspective of the proposal showing existing roof level

The assessment in this report addresses the Clause 4.6 criteria demonstrating the proposed FSR:

- is consistent with the objectives of the FSR development standard
- is consistent with the objectives of the B2 Local Centre zone
- is consistent with State and regional policies
- results in a better planning outcome
- is justified on environmental grounds
- is in the public interest

Consistent with the FSR Objectives

Clause 4.3 of the Sydney LEP 2012 includes objectives for the FSR standard. These objectives are addressed in relation to the proposal as follows:

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

Comments: There already is an existing FSR variation and the additional floor space proposed assists with providing greater internal amenity and accessibility for the guests, staff and visitors.

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

Comments: The proposal seeks to improve the existing building while providing a reduction to the number of guests, from 94 to 91. The capacity is therefore reduced, however the internal amenity is improved, the backpacker hostel is currently not accessible and accessibility is substantially improved via the new lift and other means, and the building will be closer to compliance with the BCA.

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

Comments: As discussed above, the capacity of the building is reduced and therefore does not increase the need for additional infrastructure.

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

Comments: The Darlinghurst Road precinct is evolving particularly since the devastating social and economic impacts created by COVID-19. The skilful design reflects a considerate approach to minimising the amenity impacts to the surrounding buildings. The proposed FSR variation is suitable from a heritage perspective as supported by the submitted Statement of Heritage Impact prepared by Heritage 21. Furthermore, the proposal does not compromise the heritage conservation area.

Consistent with the B2 Local Centre Objectives

The land use table of the Sydney LEP 2012 includes objectives for the site's B2 zoning classification. These objectives in relation to the proposal are addressed below.

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Comment: The proposal maintains the existing use as a backpacker's accommodation and provides small additional retail uses on the ground/arcade level.

- *To encourage employment opportunities in accessible locations.*

Comment: The proposal provides a necessary upgrade to the building to improve accessibility for guests and staff, thereby achieving this objective.

- *To maximise public transport patronage and encourage walking and cycling.*

Comment: The site is conveniently located above the Kings Cross train station and the proposal incorporates bicycle spaces.

- *To allow appropriate residential uses so as to support the vitality of local centres.*

Comment: Not relevant as the proposal maintains the existing use as a backpacker's accommodation.

Consistent with State and Regional Policies

The proposed variations ensure the site can achieve a high quality outcome without compromising the desired future character or the amenity of the surrounding area. The proposal is consistent with the objects of the Environmental Planning and Assessment Act 1979 and with relevant state and regional policies.

Results in a Better Planning Outcome

The proposal is expected to generate a better planning outcome for the following reasons:

- The proposal introduces a central lightwell within the existing building that removes usable floor space in order to provide natural sunlight to the rooms. The additional FSR is required to offset the removed floor space through additional amenities and improved rooms for guests. This is considered to be a better planning outcome rather than simply filling in the existing void area with

additional FSR as this would lead to reduced sunlight and therefore compromised amenity for the guests.

- The additional FSR does not enable additional guests or rooms, rather it contributes to improving the internal amenity and functionality of the building.

- The additional FSR can be undertaken without compromising the existing façade through providing an appropriate front setback.

- The proposed variation to the FSR can be achieved without any unreasonable impacts to the amenity of adjoining properties.

- The existing backpackers hostel is not wheelchair accessible and does not currently comply with other accessibility standards. The proposed upgrade provides accessibility for guests, staff and visitors.

- The proposed FSR variation has been designed to be integrated within the existing and adjoining buildings and results in a better planning outcome from a heritage perspective.

Justification on Environmental Grounds

In accordance with Clause 4.6 (3)(b) of the Sydney LEP 2012, the following environmental planning grounds are sufficient in justifying the proposed variation of the FSR provisions:

- The proposed FSR variation does not materially contribute to additional shadowing that would cause any unreasonable overshadowing to the site or adjoining properties. Refer to Figures 3 to 5 showing the existing and proposed shadowing particularly in relation to the adjoining 20 storey apartment building.

- The proposed setbacks are considered suitable to mitigate against any unreasonable environmental impacts associated with the proposed variation.

- The FSR variation does not impede on any public or private views.

- The skilful design maintains appropriate privacy between the proposed building and adjoining buildings. The proposed FSR variation comprises no significant impacts to the overall building envelope.

- The distribution of new floor space and removal of floor space has been appropriately organised to minimise the bulk of the existing building.

- The proposal is also supported from a heritage perspective as demonstrated in the submitted Statement of Heritage Impacts.

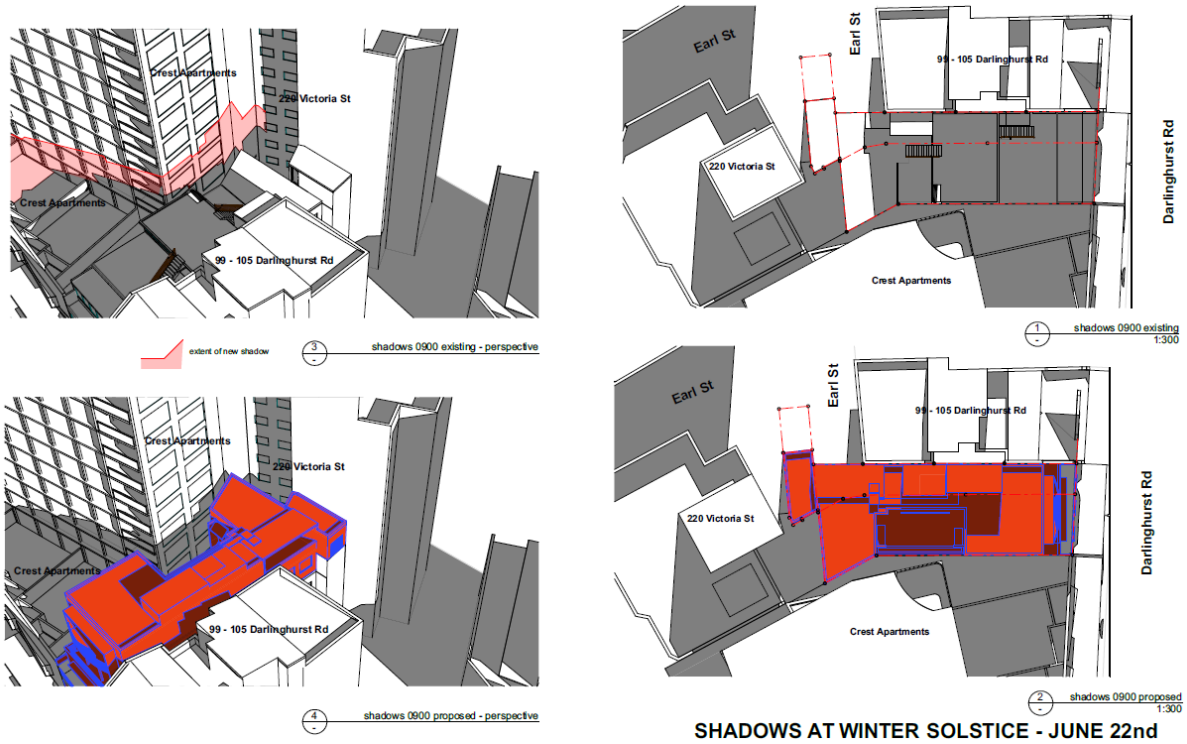

Figure 3: Proposed shadowing at 9am (winter solstice)

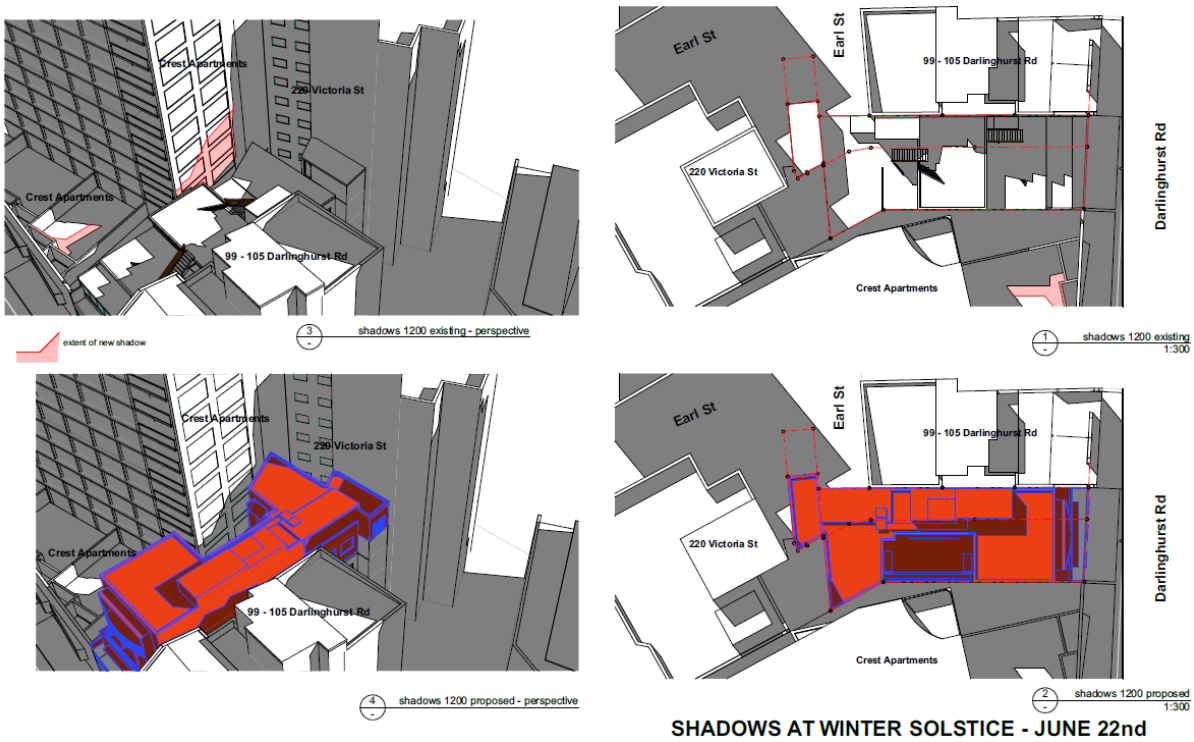

Figure 4: Proposed shadowing at 12pm (winter solstice)

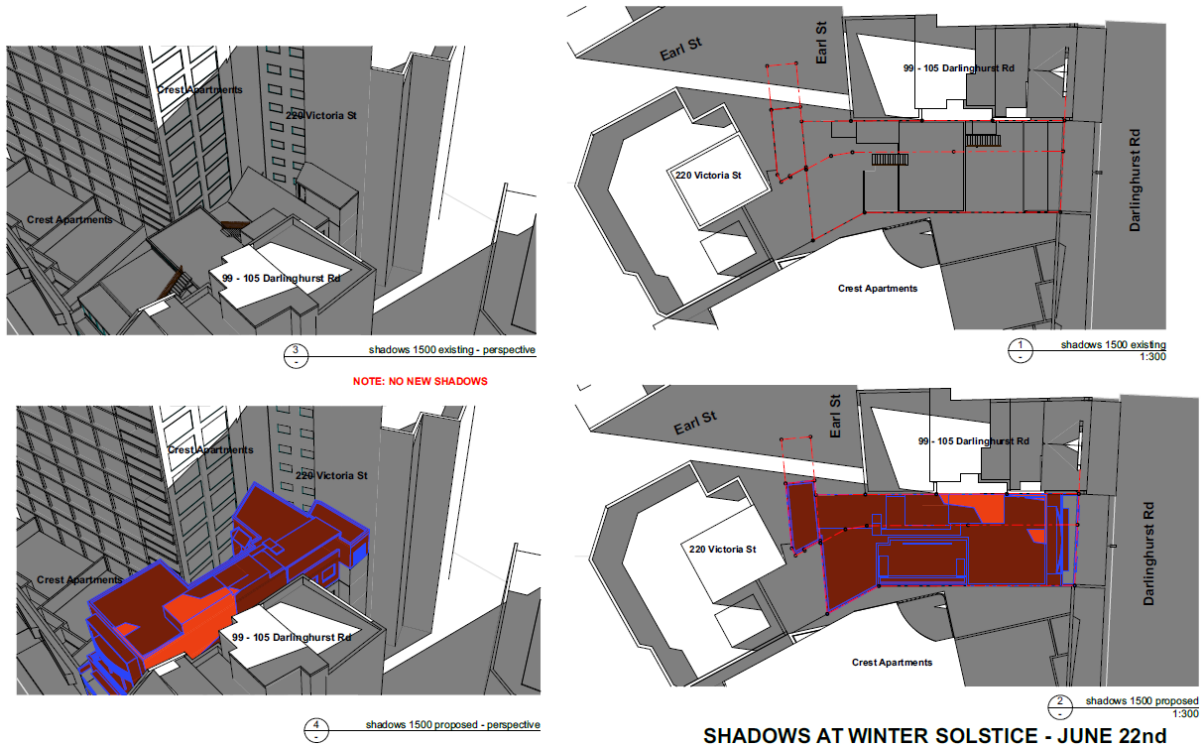

Figure 5: Proposed shadowing at 3pm (winter solstice)

Is in the Public Interest

The proposal and associated variation to the FSR is in the public interest. The variation is accommodated without generating any significant impacts to the adjoining amenity or public domain.

Unreasonable and Unnecessary FSR Development Standard

Wehbe V Pittwater Council (2007) NSWLEC 827 sets out the methods of establishing why compliance with the development standards are unreasonable or unnecessary. The application of the FSR provision to the proposal is considered unreasonable and unnecessary, consistent with for the following reasons:

- The maximum FSR does not consider the existing building already exceeds the maximum FSR. It is therefore unreasonable to expect the building to be reduced to comply.

- The maximum FSR applicable to the site does not consider a proposal that reduces the existing capacity of the backpacker's accommodation, rather than increasing the capacity, as would be typically found in other applications. However, the owners are committed to improving the internal and external layout for the guests, visitors and staff. Therefore the FSR is unreasonable and unnecessary.
- Despite the variation, the proposal comprises a skilful design that is compatible with the established character of the site and the surrounding heritage conservation area and does not cause any significant impacts to the amenity of the site or surrounding area.

- The broad application of FSR does not exclude the possibility of a high quality built form without compromising the amenity of surrounding properties. Despite the variation, the proposal can achieve these outcomes.

- The site is wedged between a 20 storey building and a five storey building as demonstrated in Figure 6 below. As such, the proposed building height and variation of only 3.6% is appropriate.

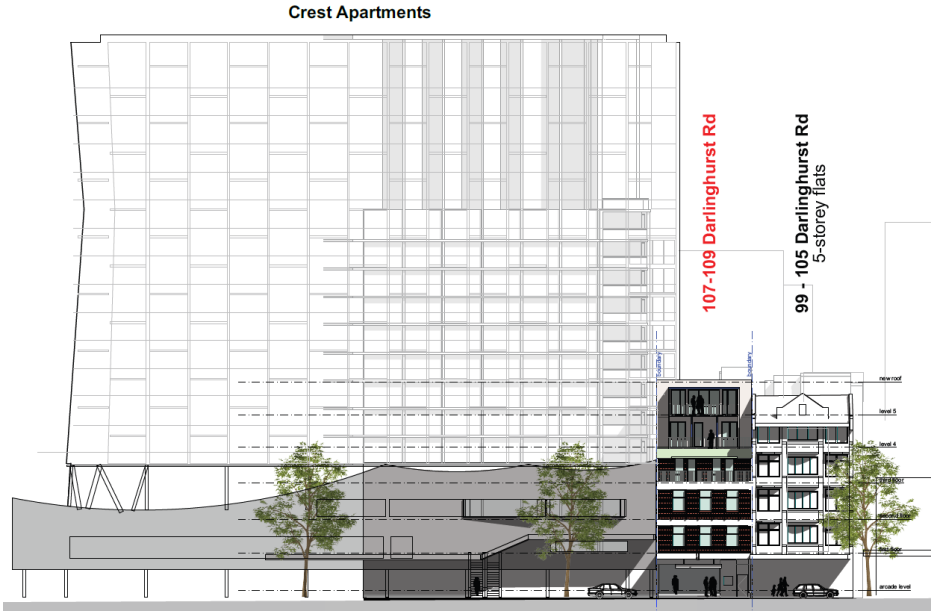

Figure 6: Proposed streetscape

Conclusion

Based on the above assessment, the proposal at 107 – 109 Darlinghurst Road, Potts Point can achieve full compliance with the objectives and intentions of both Clause 4.4 FSR and the B2 zone under the Sydney LEP 2012. This report also validates the proposal can be justified to provide a better planning outcome and the FSR standard applicable is unreasonable and unnecessary given the existing site conditions and the desired future character of Potts Point.

The design and the variation maintain the characteristics of the building, surrounding heritage listed properties and the heritage conservation area. The proposal will not lead to unreasonable amenity impacts to the surrounding residential properties in terms of bulk, scale, views, privacy and overshadowing. The proposed alterations and additions have been designed to provide accessibility and a high standard of amenity for the residents and will enhance the existing backpacker's accommodation. The proposed FSR variation should therefore be considered favourably by Council.

Attachment C

Clause 4.6 Variation Request – Height of Buildings

Request to Vary Height of Building Under Clause 4.6 of Sydney Local Environmental Plan 2012

Alterations and Additions to Existing Backpackers Accommodation at 107 - 109 Darlinghurst Road, Potts Point

October 2022



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Introduction

This request made under Clause 4.6 of the Sydney Local Environmental Plan 2012 accompanies a proposal for alterations and additions at 107 – 109 Darlinghurst Road, Potts Point. The proposal involves a variation to Clause 4.3 Height of buildings under the Sydney LEP 2012. The proposed alterations and additions will result in a building height of 22.95m which exceeds the maximum building height of 22m by 950mm (4.3%). This request to vary the development standard is considered appropriate for the proposal as will be discussed below.

The Site and Surrounding Area

The subject site at 107 - 109 Darlinghurst Road, Potts Point is a broadly rectangular shape with an area of 258.2sqm and consists of Lots 1 and 5 in DP 802224. Lot 1 has a size of 239.1sqm, a frontage of 9.25m to Darlinghurst Road and a rear aspect of 4.6m to Earl Place. The site has an average depth of 28m. Lot 5 has a size of 19.1sqm and contains fire escape stairs for the building. The site is burdened by a number of easements, including rights of footway through the site to Kings Cross Station and fire escape access for users to Earl Street. There are easements for services and sewer detailed on the DP which accompanies the application.

The site contains also contains Lot 2 in DP 802224 which contains the entrance way to the Kings Cross Station, contained on the ground floor / part of the first-floor void area. Lot 1 is located on the north-western side of Darlinghurst Road and currently accommodates a 7 storey building which includes 3 storeys of basement. The existing building was previously used as a backpackers accommodation, however has been vacant since the onset of COVID-19.

Adjoining the site to the north is a five storey mixed use building, and to the south is the 20 storey Omnia residential flat building with retail on the ground level. The surrounding area is generally characterised by retail on the ground floor and other uses on above levels.

The Proposed Variation

The Sydney LEP 2012 include provisions for exception to development standards as follows.

4.6 Exceptions to development standards

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

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

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

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

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

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

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

(a) the consent authority is satisfied that:

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

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

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

In accordance with Clause 4.6 (4)(a)(i), this written request addresses the matters required to be demonstrated by Clause 4.6 (3) relating to the proposed variation to the building height.

According to the Sydney LEP 2012, the **building height** (or height of building) means—

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,
including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The maximum building height applicable to the site is 22m. The proposed alterations and additions will result in a building height of 22.95m, which exceeds the maximum building height of 22m by 950mm (4.3%). It is recognised the existing building is already 19.7m high. Figures 1 to 3 below show the extent of the variation to the northern and southern walls of the building.

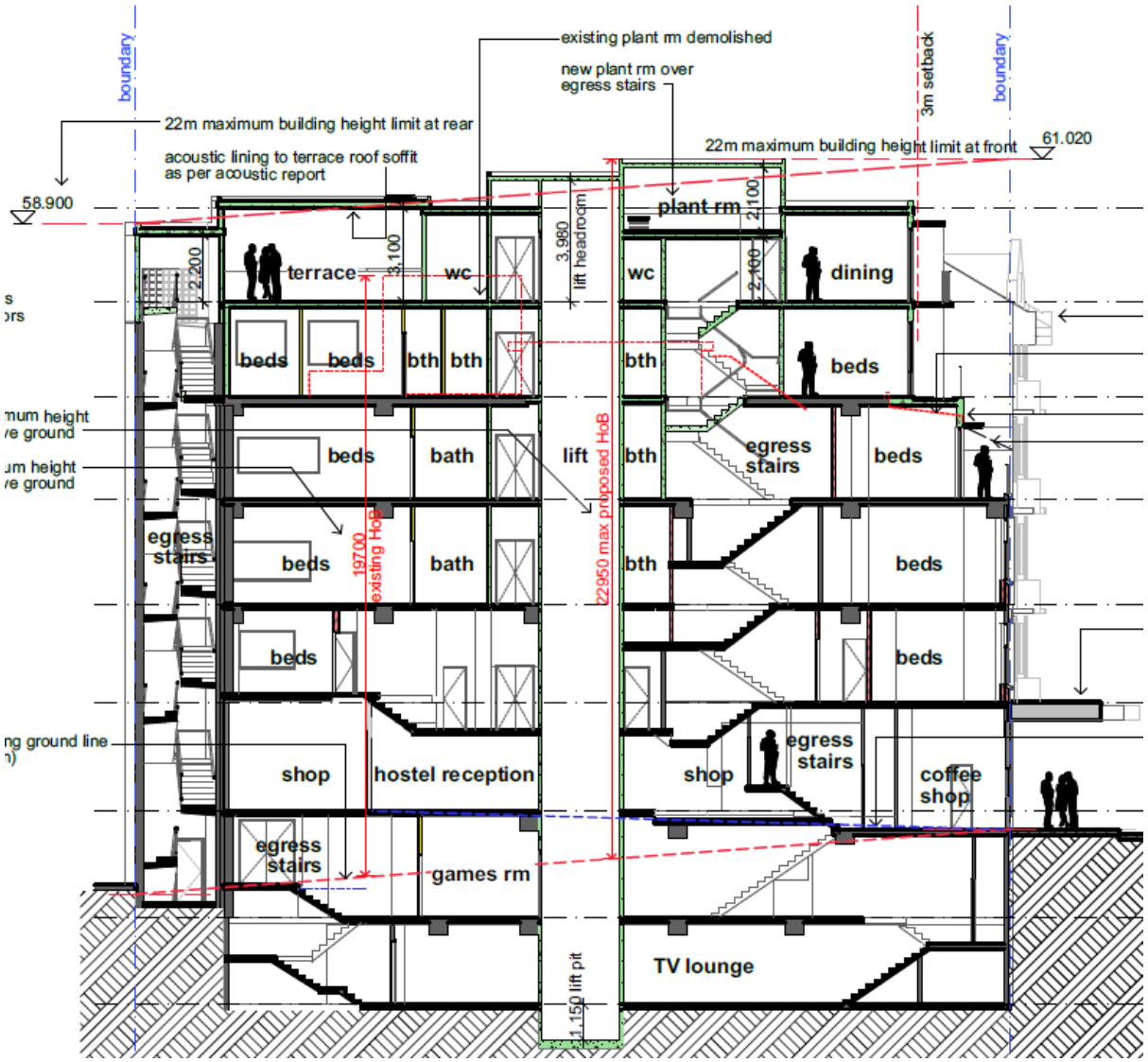

Figure 1: Proposed section looking to the north

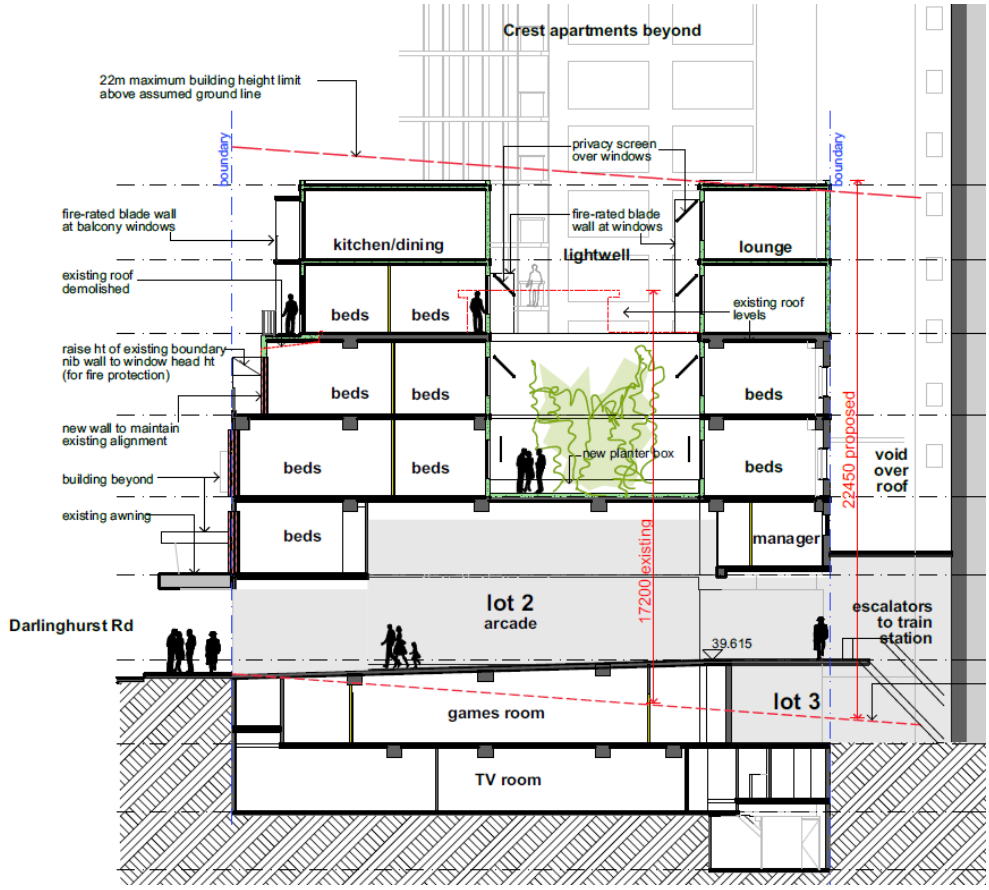

Figure 2: Proposed section looking to the south



Figure 3: 3D perspective of the proposal showing existing roof level in red dotted line

The assessment in this report addresses the Clause 4.6 criteria demonstrating the proposed building height:

- is consistent with the objectives of the building height development standard
- is consistent with the objectives of the B2 Local Centre zone
- is consistent with State and regional policies
- results in a better planning outcome
- is justified on environmental grounds
- is in the public interest

Consistent with the Building Height Objectives

Clause 4.3 of the Sydney LEP 2012 includes objectives for the building height standard. These objectives are addressed in relation to the proposal as follows:

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

Comments: The proposed height is considered to be appropriate given there is an existing height variation and the proposed addition is setback from the street. The addition is at the rear and the proposal is contextually appropriate given the 20 storey Omnia building to the south and acts as a suitable transition to the lower buildings to the north.

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

Comments: The proposed height of the addition is suitable from a heritage perspective as supported by the submitted Statement of Heritage Impact prepared by Heritage 21. Furthermore, the proposal does not compromise the heritage conservation area.

Consistent with the B2 Local Centre Objectives

The land use table of the Sydney LEP 2012 includes objectives for the site's B2 zoning classification. These objectives in relation to the proposal are addressed below.

- *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*

Comment: The proposal maintains the existing use as a backpacker's accommodation and provides small additional retail uses on the ground/arcade level.

- *To encourage employment opportunities in accessible locations.*

Comment: The proposal provides a necessary upgrade to the building to provide accessibility for guests and staff, thereby achieving this objective.

- *To maximise public transport patronage and encourage walking and cycling.*

Comment: The site is conveniently located above the Kings Cross train station and the proposal incorporates bicycle spaces.

- *To allow appropriate residential uses so as to support the vitality of local centres.*

Comment: Not relevant as the proposal maintains the existing use as a backpacker's accommodation.

Consistent with State and Regional Policies

The proposed variations ensure the site can achieve a high quality outcome without compromising the desired future character or the amenity of the surrounding area. The proposal is consistent with the objects of the Environmental Planning and Assessment Act 1979 and with relevant state and regional policies.

Results in a Better Planning Outcome

The proposal is expected to generate a better planning outcome for the following reasons:

- The proposal introduces a central lightwell within the existing building that removes usable floor space in order to provide natural sunlight to the rooms. The additional building height is required to offset the floor space above the existing building. This is considered to be a better planning outcome rather than simply filling in the existing void area and increasing the building height as this would lead to reduced and therefore compromised amenity for the guests.

- The additional height can be undertaken without compromising the existing façade through providing an appropriate front setback.

- The proposed variation to the building height can be achieved without any unreasonable impacts to the amenity of adjoining properties.

- The proposed building height variation has been designed to be integrated within the existing and adjoining buildings and results in a better planning outcome from a heritage perspective.

Justification on Environmental Grounds

In accordance with Clause 4.6 (3)(b) of the Sydney LEP 2012, the following environmental planning grounds are sufficient in justifying the proposed variation of the building height provisions:

- The proposed height variation does not materially contribute to additional shadowing that would cause any unreasonable overshadowing to the site or adjoining properties. Refer to Figures 4 to 6 showing the existing and proposed shadowing particularly in relation to the adjoining 20 storey apartment building.

- The proposed setbacks are considered suitable to mitigate against any unreasonable environmental impacts associated with the proposed variation.

- The building height variation does not impede on any public or private views.

- The skilful design maintains appropriate privacy between the proposed building and adjoining buildings. The proposed height variation comprises no significant impacts to the overall building envelope.

- The proposal is also supported from a heritage perspective as demonstrated in the submitted Statement of Heritage Impacts.

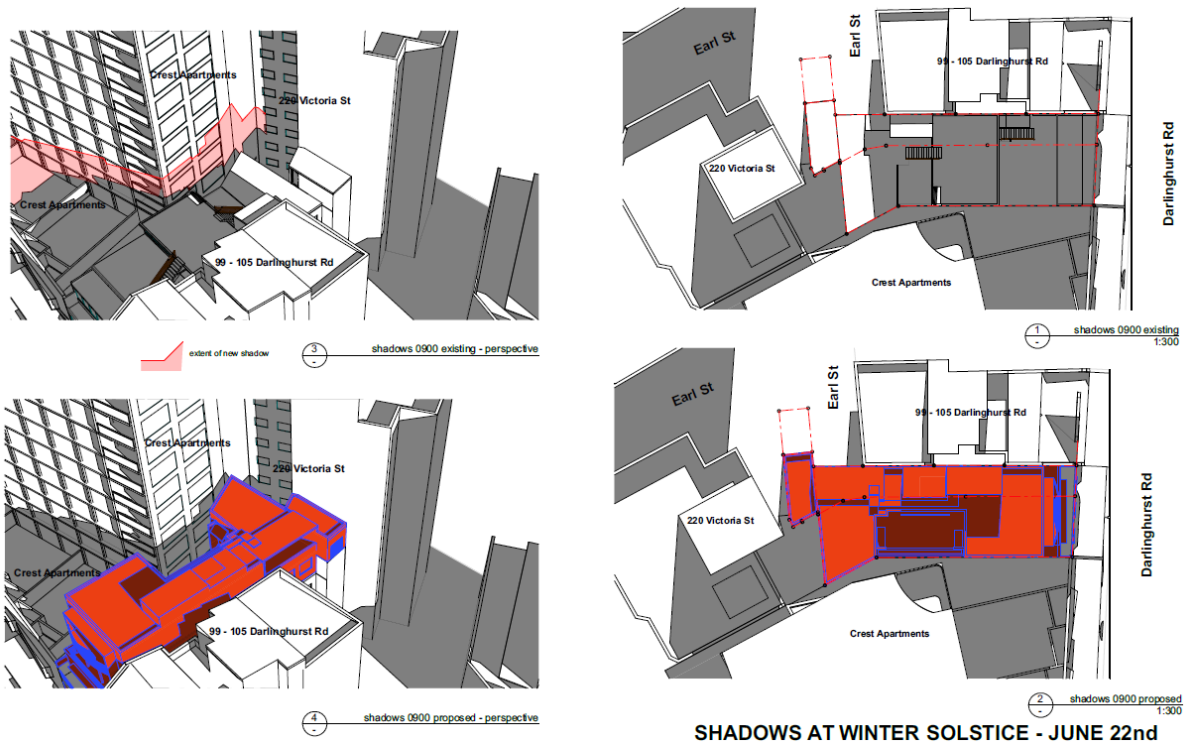

Figure 4: Proposed shadowing at 9am (winter solstice)

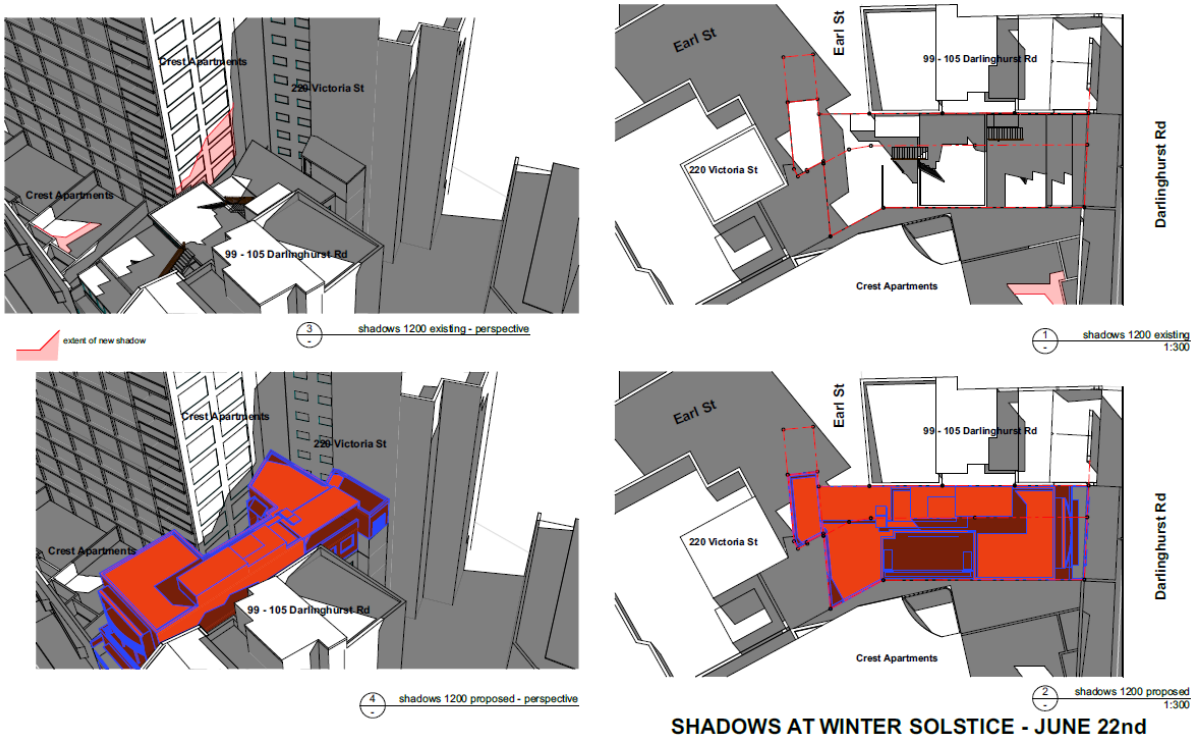

Figure 5: Proposed shadowing at 12pm (winter solstice)

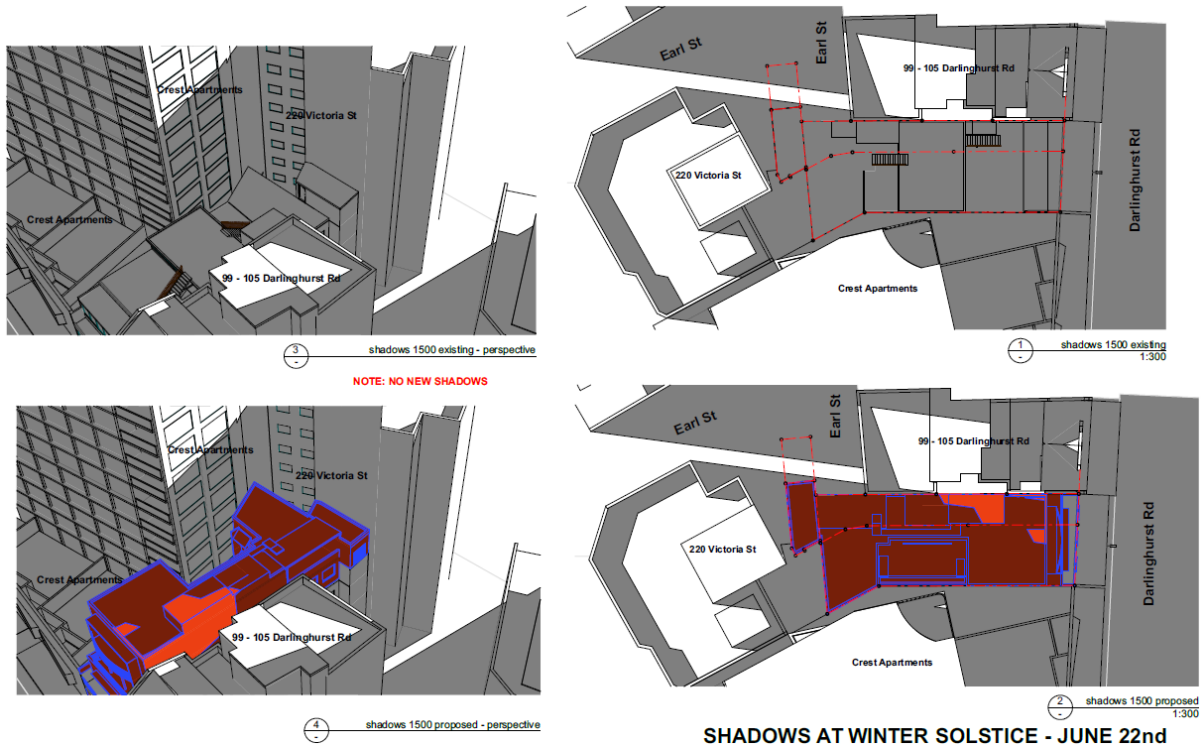

Figure 6: Proposed shadowing at 3pm (winter solstice)

Is in the Public Interest

The proposal and associated variation to the building height is in the public interest. The variation is accommodated without generating any significant impacts to the adjoining amenity or public domain.

Unreasonable and Unnecessary Building Height Development Standard

Wehbe V Pittwater Council (2007) NSWLEC 827 sets out the methods of establishing why compliance with the development standards are unreasonable or unnecessary. The application of the building height provision to the proposal is considered unreasonable and unnecessary, consistent with for the following reasons:

- Despite the variation, the proposal comprises a skilful design that is compatible with the established character of the site and the surrounding heritage conservation area and does not cause any significant impacts to the amenity of the site or surrounding area.

- The broad application of building height does not exclude the possibility of a high quality built form without compromising the amenity of surrounding properties. Despite the variation, the proposal can achieve these outcomes.

- The site is wedged between a 20 storey building and a five storey building as demonstrated in Figure 7 below. As such, the proposed building height and variation of only 4.3% is appropriate.

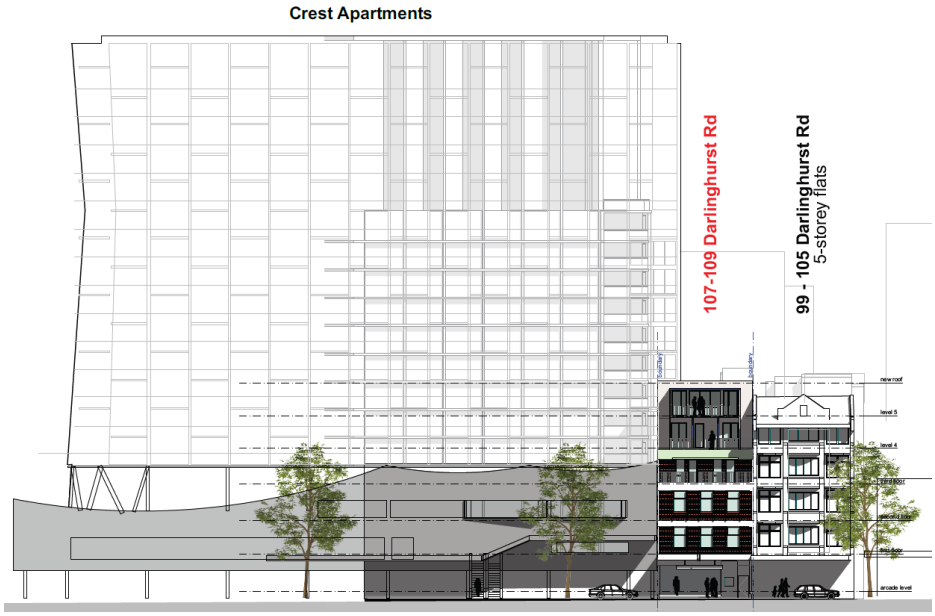

Figure 7: Proposed streetscape

Conclusion

Based on the above assessment, the proposal at 107 – 109 Darlinghurst Road, Potts Point can achieve full compliance with the objectives and intentions of both Clause 4.3 Height of buildings and the B2 zone under the Sydney LEP 2012. This report also validates the proposal can be justified to provide a better planning outcome and the building height standard applicable is unreasonable and unnecessary given the existing site conditions and the desired future character of Potts Point.

The design and the variation maintain the characteristics of the building, surrounding heritage listed properties and the heritage conservation area. The proposal will not lead to unreasonable amenity impacts to the surrounding residential properties in terms of bulk, scale, views, privacy and overshadowing. The proposed alterations and additions have been designed to provide a high standard of amenity for the residents and will enhance the existing backpacker's accommodation. The proposed building height variation should therefore be considered favourably by Council.