CITY OF SYDNEY

9 November 2023

At 5.00 pm

# Central Sydney Planning Committee

# Agenda

1. Disclosures of Interest
2. Confirmation of Minutes
3. Matters Arising from the Minutes
4. Development Application: 28-30 Orwell Street, Potts Point - D/2021/893
5. Post Exhibition - Planning Proposal - 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge - Sydney Local Environmental Plan 2012 Amendment
6. Post Exhibition - Planning Proposal - 85-93 Commonwealth Street, Surry Hills - Sydney Local Environmental Plan 2012 Amendment

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As part of our democratic process, the City invites members of the community to speak directly to committee members during Central Sydney Planning Committee meetings about items on the agenda.

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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 committee 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 (with a warning bell at two minutes) 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 committee 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 Central Sydney Planning Committee meeting, the Chair may reorder agenda items so that those items with speakers can be dealt with first.

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# Item 1.

## Disclosures of Interest

Pursuant to the provisions of the City of Sydney Code of Meeting Practice and the City of Sydney Code of Conduct, Members of the Central Sydney Planning Committee are required to disclose and manage both pecuniary and non-pecuniary interests in any matter on the agenda for this meeting.

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

This includes receipt of reportable political donations over the previous four years.

# Item 2.

## Confirmation of Minutes

Minutes of the following meeting of the Central Sydney Planning Committee are submitted for confirmation:

Meeting of 19 October 2023

# Item 3.

## Matters arising from the Minutes

Matters arising from the minutes of the Central Sydney Planning Committee of 19 October 2023.

# Item 4.

## Development Application: 28-30 Orwell Street, Potts Point - D/2021/893

**File No.: D/2021/893**

## Summary

| | |
|---|---|
| **Date of Submission:** | 5 August 2021<br><br>Amended drawings submitted 1 August 2022, 9 December 2022, 7 March 2023 and 29 August 2023 |
| **Applicant:** | CE Minerva Pty Ltd |
| **Architect:** | Tonkin Zulaikha Greer Architects |
| **Developer:** | Central Element |
| **Owner:** | CE Minerva Pty Ltd |
| **Planning Consultant:** | Planning Lab |
| **Heritage Consultant:** | Tonkin Zulaikha Greer Heritage |
| **DAP:** | 23 March 2023 |
| **Cost of Works:** | $69,107,997 |
| **Zoning:** | The site is located within the MU1 Mixed Use zone and the proposed development is permissible with consent. |
| **Proposal Summary:** | Development consent is sought for alterations and additions to the existing building including new basement levels, to facilitate an adaptive reuse to a mixed use development. The proposed land uses include a hotel with 63 rooms, cafe, entertainment facility, and small bar.<br><br>The proposed development is compliant with the maximum 3.5:1 floor space ratio (FSR) standard under the Sydney Local Environmental Plan 2012 (Sydney LEP 2012). The development exceeds the maximum 22 metre height of buildings standard by 2.92 metres, or 13.27%. The variation to the Sydney LEP 2012 height standard is subject to a written Clause 4.6 variation request, which is supported. |

The site is listed on the State Heritage Register and the Integrated Development Application was referred to the Heritage Council of New South Wales. The application was amended to address recommendations made by Heritage New South Wales, who have granted General Terms of Approval (GTAs) as delegate of Heritage Council of New South Wales. As approval has been granted by Heritage New South Wales, the consent authority must not refuse development consent on heritage grounds, in accordance with Clause 4.48 of the Environmental Planning and Assessment Act, 1979.

A single project Heritage Committee was established by the City as required by the Sydney Development Control Plan (Sydney DCP 2012) to provide heritage advice. The Committee did not support the proposal however a number of conditions are recommended in response to their advice. As noted, the Heritage Council did support the project subject to some detailed conditions and their GTAs prevail.

The proposal was considered by the City's Design Advisory Panel who support the adaptive reuse of the building.

It is recommended that the capacity of the entertainment facility be up to 250 patrons and that the hours of operation of the entertainment facility be until 1am and the hours of operation of the small bar be until midnight to ensure that the proposal does not exceed the controls in the Sydney DCP 2012 and impact upon neighbouring residential properties.

A view loss assessment has been carried out which demonstrates the proposal will have some but not an unreasonable impact on views from surrounding properties to the Sydney Harbour Bridge, Opera House, harbour and city skyline.

The application was notified and advertised for 28 days in accordance with Clause 2.22 of the *Environmental Planning and Assessment Act 1979*. A total of 178 submissions were received by the City in response, comprising 164 objections including a petition of 1,799 signatures, 11 submissions in support, and 3 comments. The amended proposal was re-notified for a period of 14 days. A total of 55 submissions were received in response to the re-notification of the amended application, comprising 47 objections including a petition of 1,773 signatures, 7 submissions in support, and 1 comment.

Due to an initially lower estimated cost of construction in 2021, the development application was eventually reported to the Local Planning Panel on 19 July 2023 with a recommendation for deferred commencement approval. The Panel deferred consideration of the development application to enable the applicant to submit additional information and amended plans to address a number of concerns raised by the Panel. During that time the applicant submitted amended plans and additional information in response to the Panels comments.

Part of the revisions was an amended and updated estimated cost of development cost at $69,107,997. Consequently, the City engaged an independent Quantity Surveyor to carry out a peer review, and their calculations agreed with the revised estimated cost of development.

Therefore the application is referred to the Central Sydney Planning Committee (CSPC) for determination as the proposal is "major development" for the purposes of the City of Sydney Act 1988, as the estimated cost of development exceeds $50 million.

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

**Development Controls:**

(i) Environmental Planning and Assessment Act 1979 and Environmental Planning Assessment Regulation 2000

(ii) City of Sydney Act 1988

(iii) Heritage Act 1977

(iv) Water Management Act 2000

(v) Sydney Local Environmental Plan 2012

(vi) Sydney Development Control Plan 2012

(vii) State Environmental Planning Policy (Resilience and Hazards) 2021

(viii) State Environmental Planning Policy (Industry and Employment) 2021

(ix) State Environmental Planning Policy (Transport and Infrastructure) 2021

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

(xi) City of Sydney Affordable Housing Program

**Attachments:**

A. Recommended Conditions of Consent

B. Selected Drawings

C. Clause 4.6 Request - Height of Buildings

D. General Terms of Approval - Heritage New South Wales

E. Heritage Committee Report

F. Plan of Management

G. View Impact Assessment

H. Resolution of Local Planning Panel - 19 July 2023

I. Applicant Response to the Resolution of the Local Planning Panel

## Recommendation

It is resolved that:

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

(B) 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/2021/893, 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, subject to conditions, is consistent with the objectives of the MU1 Mixed Use zone pursuant to Sydney Local Environmental Plan 2012.

(B) Based upon the material available to the Committee at the time of determining this application, the Committee 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 Local Environmental Plan 2012; and

(ii) the proposal is in the public interest because it is consistent with the objectives of the MU1 Mixed Use zone and the height of buildings development standard.

(C) The development conserves the heritage significance of the heritage item and satisfies Clause 5.10 of the Sydney Local Environmental Plan 2012.

(D) The development exhibits design excellence to satisfy Clause 6.21C of Sydney Local Environmental Plan 2012.

(E) The development is consistent with the character and principles identified in the locality statement for Kings Cross in Section 2.4.7 of the Sydney Development Control Plan 2012.

(F) The development, subject to conditions, has addressed environmental impacts, will improve the quality and amenity of the public domain, and does not detrimentally impact any significant view corridors.

(G) The proposal, subject to conditions, provides acceptable amenity for the proposed hotel accommodation use.

(H) The site is suitable for the proposed development.

(I) The public interest is served by the approval of the proposal, as amendments to the development application have generally addressed the matters raised by the City. This is subject to the recommended conditions of consent imposed relating to the appropriate management of the potential environmental impacts associated with the development.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lots 1, 2, 3 and 4 in Deposited Plan 456456, and Lot 10 DP 10682, and is commonly known as 28-30 Orwell Street, Potts Point. It is rectangular in shape with area of 1,266.659 square metres. It has a primary frontage of 46 metres to Orwell Street and a secondary frontage of 25 metres to Orwell Lane. The site is located close to the intersection of Orwell Street and Macleay Street.

2. The site formerly accommodated the Metro Theatre (and prior to that the Minerva), which has a recent state heritage listing and is described as an outstanding example of modern architecture in New South Wales. It is considered a rare example of an Interwar Functionalist style theatre with Streamline Moderne features. The Metro Theatre is considered to be culturally iconic by the community, forming part of the history of theatre, dance hall and cinema in New South Wales, reflecting the boom in cinema/theatre development in the 1930s.

3. The Metro Theatre is of historical and aesthetic significance as one of the finest surviving Functionalist exteriors in Australia, dominated by a bold, expressionist tower, contrasting with curved, horizontal motifs as seen from the streets. The external volume of the fly tower highlights the design and use of the Minerva, and later Metro Theatre, for the production of live theatre as well as moving pictures.

4. The interior, particularly the seating auditorium, was one of the finest and most striking of any theatre to have been constructed in Australia during the 1930s and a stark contrast to the State Theatre built 10 years earlier. The auditorium's dramatically backlit proscenium splays and the coved, streamlined plaster ceiling continue to make a powerful visual impression. Although partly modified and the raking floor and seats removed prior to the installation of offices and film studio of Kennedy Miller Film Productions, the interior still demonstrates its sophisticated, original architectural character.

5. Now a state heritage item, being the Metro Theatre (formerly Minerva) (State Heritage Register Number 02049), it was listed in 2020. The site is a local heritage item (Item Number I1150) and is located within the Potts Point heritage conservation area (Map reference C51).

6. The site has potential archaeological remains under the existing building, being the remnant footings and foundations of Orwell House an 1820s building.

7. There is a Right of Way at the rear of the site that connects to Orwell Lane.

8. The surrounding area is characterised by a mixture of land uses, primarily being residential flat buildings and commercial premises, and is opposite Springfield Gardens and the end on Llankelly Place.

9. To the south of the site, on the opposite side of Orwell Street, is:

   (a) A public reserve known as Springfield Gardens, also known as Orwell Street Reserve, and the end of Llankelly Place

   (b) 113-115 Macleay Street to the south-east, a mixed use building with ground floor retail premises and residential flats above known as 'Gowrie Gate'

(c) 117 Macleay Street further to the south-east, a residential flat building known as 'Cahors' (a local heritage item, numbered I1145)

10. To the south of Springfield Gardens is:

(a) 12 Springfield Avenue, a residential flat building

(b) 12A Springfield Avenue, a residential flat building

(c) 27 Orwell Street, a backpackers' accommodation trading as the 'Jolly Swagman'

(d) 29 Orwell Street, a mixed use building with ground floor restaurant/cafe use fronting Llankelly Place and residential flats above

11. To the west is 26 Orwell Street, a residential flat building.

12. To the north the site adjoins 4 properties:

(a) 1 Orwell Lane, an electrical substation (a local heritage item, numbered I1149)

(b) 27 Hughes Street, chapel with offices, crisis centre, meeting rooms, op-shop, café, one dwelling, known as the 'Wayside Chapel'

(c) 25 Hughes Street, a residential flat building

(d) 23 Hughes Street, a backpackers' accommodation

13. To the east on the opposite side of Orwell Lane is:

(a) 32-34 Orwell Street, being a commercial building known as 'The Roosevelt', formerly the 2KY Radio Station (a local heritage item, numbered I1151)

(b) 101-103 Macleay Street to the north-east, being a mixed use building with commercial uses at ground floor and residential flats above known as 'Ganray'

(c) 97-99 Macleay Street further to the north-east, being residential flat building known as 'Byron Hall' (a local heritage item, numbered I1143)

14. The site is located within the Kings Cross locality and is identified as being subject to flooding.

15. Site visits were carried out throughout 2021, 2022 and 2023.

16. Photographs of the subject site and its surroundings are reproduced in the figures provided below:




**Figure 1**: Aerial view of the subject site (outlined in red) and its surroundings, including Springfield Gardens (outlined in green).




**Figure 2**: The subject site viewed from the corner of Orwell Street and Orwell Lane, facing north-west.

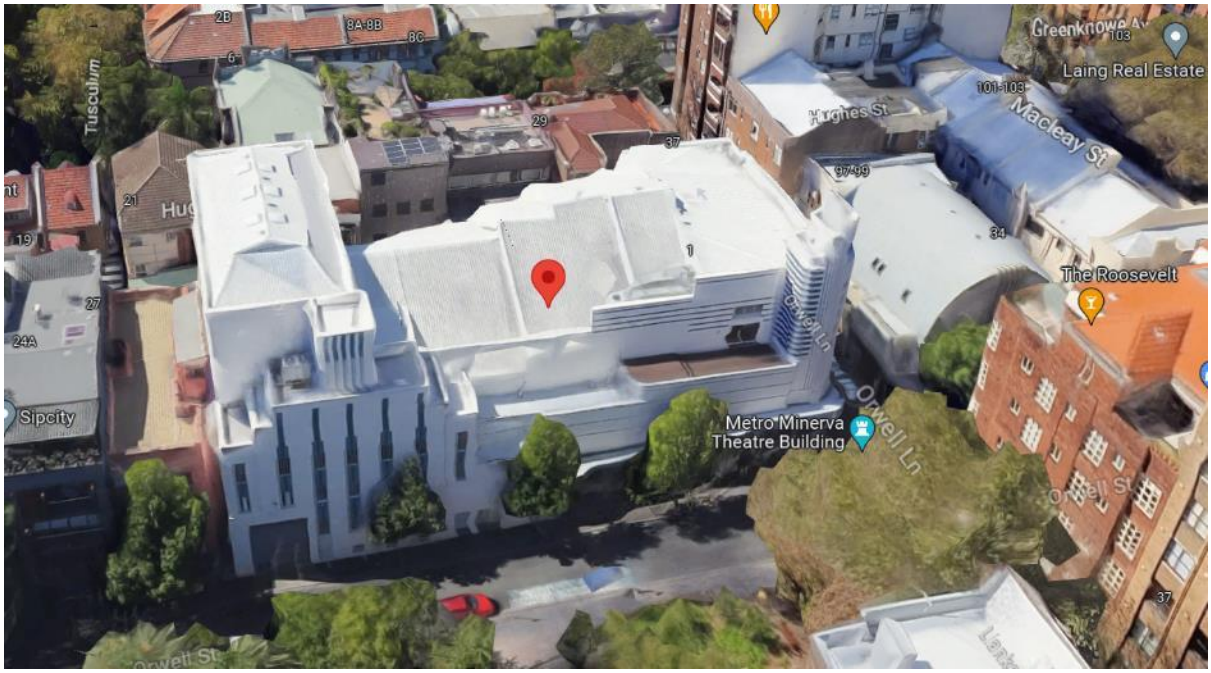


**Figure 1**: The subject site viewed from above.



**Figure 4**: The loading entrance, narrow side stage area, and at the top the access tower to the fly tower (not visible) as viewed from Orwell Street, facing north.




**Figure 5**: The subject site viewed from the corner of Orwell Street and Orwell Lane, facing north.



**Figure 6**: The existing auditorium, as viewed from an upper level mezzanine.



**Figure 7**: The former stage area and current proscenium.



**Figure 8**: The current auditorium ceiling.

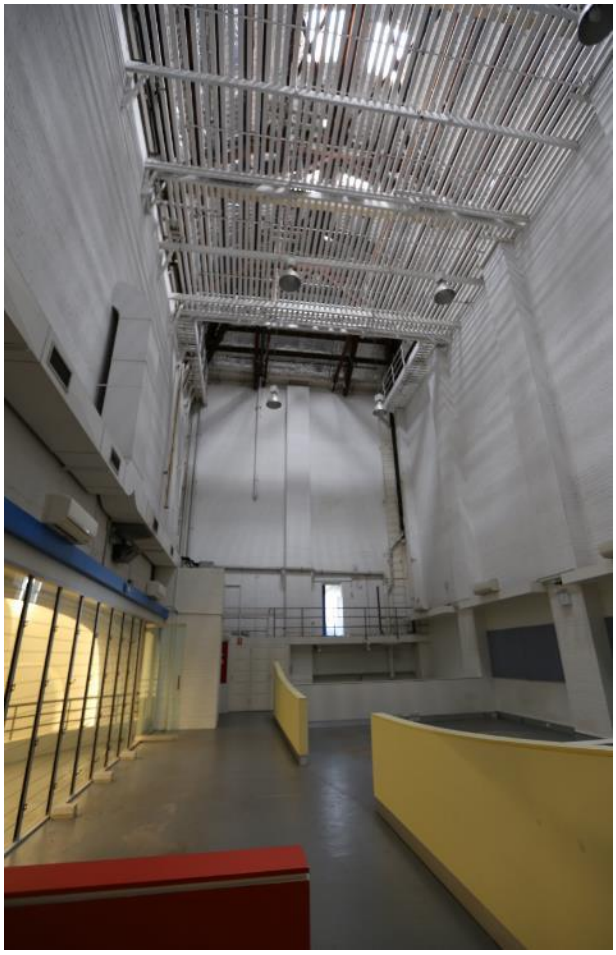

**Figure 9**: The existing fly tower.

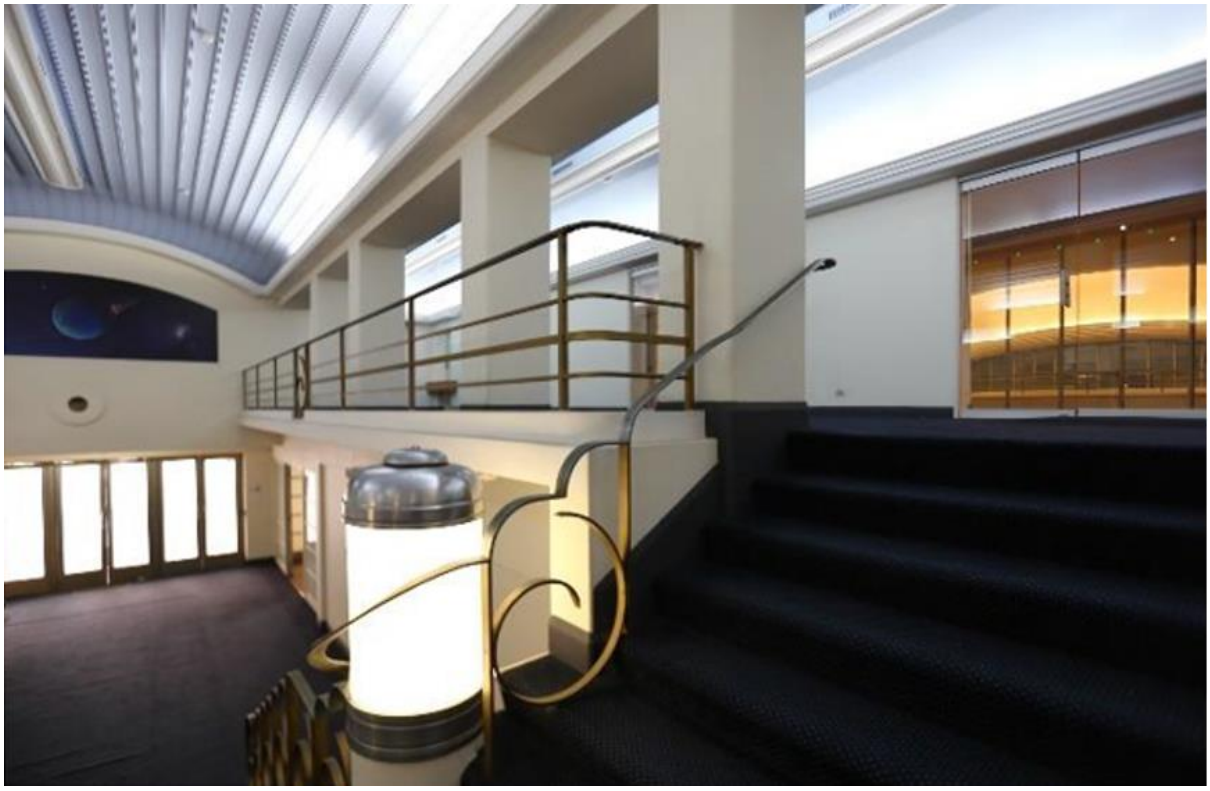

**Figure 10**: The existing foyer and grand staircase.



**Figure 11**: Neighbouring residential building at 113-115 Macleay Street, known as Gowrie Gate, viewed from the upper level balcony of the subject site.



**Figure 12**: View from upper level balcony to Springfield Gardens.




**Figure 13**: Neighbouring substation and the Wayside Chapel to the north viewed from Orwell Lane.



**Figure 14**: Neighbouring residential buildings on the opposite side of Orwell Lane looking north.



**Figure 15**: The neighbouring Roosevelt bar and restaurant to the east viewed from Orwell Street.




**Figure 16**: The view south along Llankelly Place.



**Figure 17**: Neighbouring residential buildings at 24 and 26 Orwell Street.



**Figure 18**: The view of the site (looking south) from the communal roof terrace of 25 Hughes Street to the north.

## History Relevant to the Development Application

### Previous Uses

17. The subject building was originally designed to be operated as the Minerva Theatre. It officially opened in 1939 and mostly operated as a theatre until 1950.

18. From 1950 to 1979 Metro Goldwin Mayer occupied the site. The Minerva reopened as a picture theatre (cinema) and was renamed “Kings Cross Metro.” Between 1967 and1971, the building briefly reverted back to a live theatre venue for the Australian production of the American irreverent rock musical “Hair” set in New York City.

19. In 1981, the Metro Theatre reopened as the Metro International Food Fair, however the use ceased a year later in 1982.

20. Between 1982 and 2018 the building was occupied by Kennedy Miller Film Productions studio and offices.

21. The building has been vacant for 5 years with a number of owners.

### Development Applications

22. The following application is relevant to the current proposal:

- **D/2022/57** – Development consent was granted on 1 April 2022 for archaeological test excavation. This application was a result of a request for further information by Heritage NSW as part of their referral under the Heritage Act, 1977.

### Amendments

23. Since the lodgement of the subject development application, a number of amendments and packages of additional information have been received by the City throughout the period between 2021 and 2023.

24. Significant changes to the design include:

(a) A reduction of the proposed basement by two full levels and reduction in the size and footprint of the basement

(b) Retention of the grand staircase within the foyer

(c) Deletion of new openings within the fly tower wall

(d) A reduction in the north-eastern corner of the vertical addition to the main building to assist with view sharing

(e) Reconfiguring internal lift circulation and provision of a separate hotel reception area

(f) Provision of airlock to the foyer's entry doors

(g) Provision of vertical window shroud's to north facing windows of Level 4 and 5 hotel rooms

25. A significant period of time was spent resolving archaeological issues based on a request for additional information from Heritage NSW. This required the lodgement of a separate development application (D/2022/57) prior to archaeological test excavation being carried out.

26. It is noted that amended drawings were submitted in December 2022 which brought the new vertical additions towards Orwell Street, due to a reconfiguration of the upper levels and a reduction in the building envelope at the north-east corner to assist with view sharing.

27. This resulted in additional overshadowing to the predominantly treed and paved public reserve known as Springfield Gardens and the applicant was advised that the amendments were not supported.

28. Further amended drawings were submitted in March 2023 which modified the form of the vertical addition so that there was no further overshadowing of Springfield Gardens beyond what had originally been proposed.

29. Additional information provided includes an amended Plan of Management, amended Noise Impact Assessment, amended Clause 4.6 variation request, and provision of a View Impact Assessment.

30. In response to the resolution of the Local Planning Panel on 19 July 2023, the applicant submitted amended plans and additional information including:

    (a) Amended drawings including:

        (i) Reconfiguring internal lift circulation and provision of a separate hotel reception

        (ii) Provision of airlock to the foyer's entry doors

        (iii) Provision of vertical window shroud's to north facing windows of Level 4 and 5 hotel rooms

    (b) Drawing showing 22m height plane

    (c) Drawing showing reversibility

    (d) Drawings showing privacy analysis

    (e) Amended Clause 4.6 variation request

    (f) Amended Plan of Management

    (g) Amended Noise Impact Assessment

    (h) Amended Operations Plan

    (i) Amended Registered Quantity Surveyor's Detailed Cost Report and Elemental Estimate

## Proposed Development

31. The application seeks development consent for alterations and additions to the existing building including new basement levels, to facilitate an adaptive reuse to a mixed use development for entertainment and visitor uses. The proposed uses include a hotel with 63 rooms, cafe, entertainment facility, and small bar.

32. The proposed works include:

    (a) Excavation under the building for two basement levels, including removal of the extant footings of the 1820s Orwell House

    (b) Insertion of concrete floor plates for 5 storeys in the fly tower and 2 additional storeys on top of the fly tower

    (c) Two storeys of concrete floors and glazing addition on top of the auditorium ceiling

    (d) Two pop-up additions to the southern elevation on Level 3

    (e) A 7 storey tall concrete wall on the northern side of the building

    (f) Extensive structural system to support the proposed additions, including one large column in the auditorium space that will penetrate the ceiling

    (g) New partitions and rooms in the auditorium space

    (h) Demolition of fabric of exceptional significance including:

        (i) part of the northern external wall

        (ii) some southern windows

        (iii) part demolition of external walls for new windows

        (iv) lowering of fly tower walls

    (i) Demolition of fabric of high significance including:

        (i) all timber and steel roof structures

        (ii) two southern staircases

        (iii) northern external staircase

        (iv) timber catwalk and associated ladders

    (j) Demolition of fabric of moderate significance including:

        (i) original ground floor and basement toilets

        (ii) original concrete slab in the foyer

        (iii) all original floors in the southern parts

        (iv) circular boxes

(v) original ceilings on northeast and southern areas

(k) Demolition of non-significant fabric including:

(i) 1980s slabs

(ii) walls

(iii) partitions

(l) Retention of the original auditorium ceiling in situ, with a structural birdcage solution requiring several penetrations into the ceiling fabric during construction

(m) Retention of the grand staircase and curved ceiling in the foyer

(n) Four new lifts, new services, National Construction Code-related upgrades, structural upgrade of existing retained building, works to achieve Disability Discrimination Act compliance, fire hydrant boosters, internal ceiling mounted sprinklers, and onsite substation

33. The proposed configuration of the development, by level, includes:

(a) Basement 2 - Hotel gym, staff facilities, hotel administration, storage, plant rooms

(b) Basement 1 - Vehicle loading and 2 parking spaces, garbage room, small bar, kitchen

(c) Ground Floor - Foyer, hotel reception, cafe, entertainment facility and bar, finishing kitchen, back stage area, 1 hotel room, substation

(d) First Floor - foyer balcony, entertainment facility, bathrooms, 6 hotel rooms

(e) Second Floor - entertainment facility, 10 hotel rooms

(f) Third Floor - 9 hotel rooms

(g) Fourth Floor - 19 hotel rooms

(h) Fifth Floor - 13 hotel rooms

(i) Sixth Floor - 5 hotel rooms, rooftop plant

(j) Roof - photovoltaic panels

34. The proposed hours of operation of the various uses are as follows:

(a) Entertainment facility - 7.00am to 1.00am the following day, Sundays to Thursdays inclusive, and 7.00am to 2.00am the following day, Fridays and Saturdays

(b) Cafe - 7.00am to 12.00am midnight, Mondays to Sundays inclusive

(c) Small bar - 10.00am to 1.00am the following day, Sundays to Thursdays inclusive, and 10.00am to 2.00am the following day, Fridays and Saturdays

35. The proposed patron capacities are:

    (a) Entertainment facility - 250 patrons

    (b) Cafe - 30 patrons indoor, and 18 outdoor

    (c) Small bar - 110 patrons

36. One sign is proposed, being the replacement of the 'Metro' corner sign with a 'Minerva' sign consisting of individual lettering. In addition, a signage strategy has been provided outlining future signage zones.

37. Plan, elevation, section and photomontage drawing extracts of the proposed development are reproduced in the figures provided below, and a full set of drawings is provided in Attachment B.

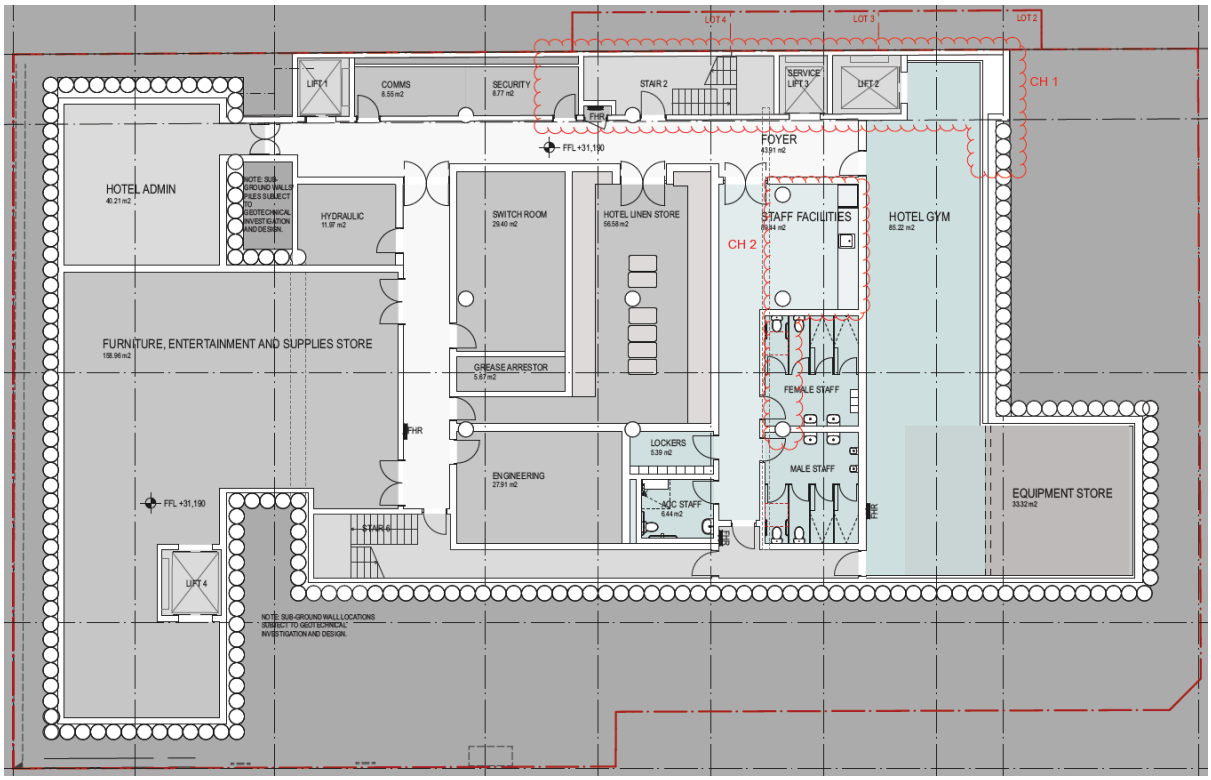


**Figure 19**: Basement Level 2 floor plan

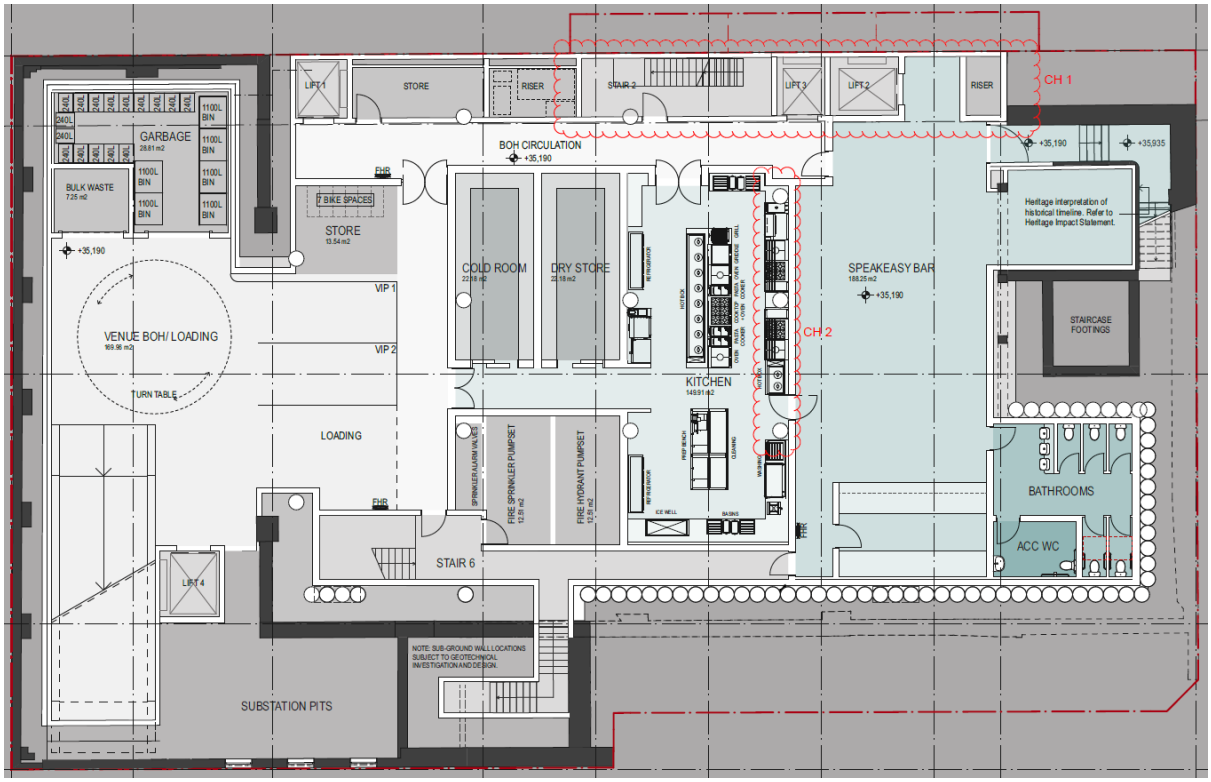


**Figure 20**: Basement Level 1 floor plan

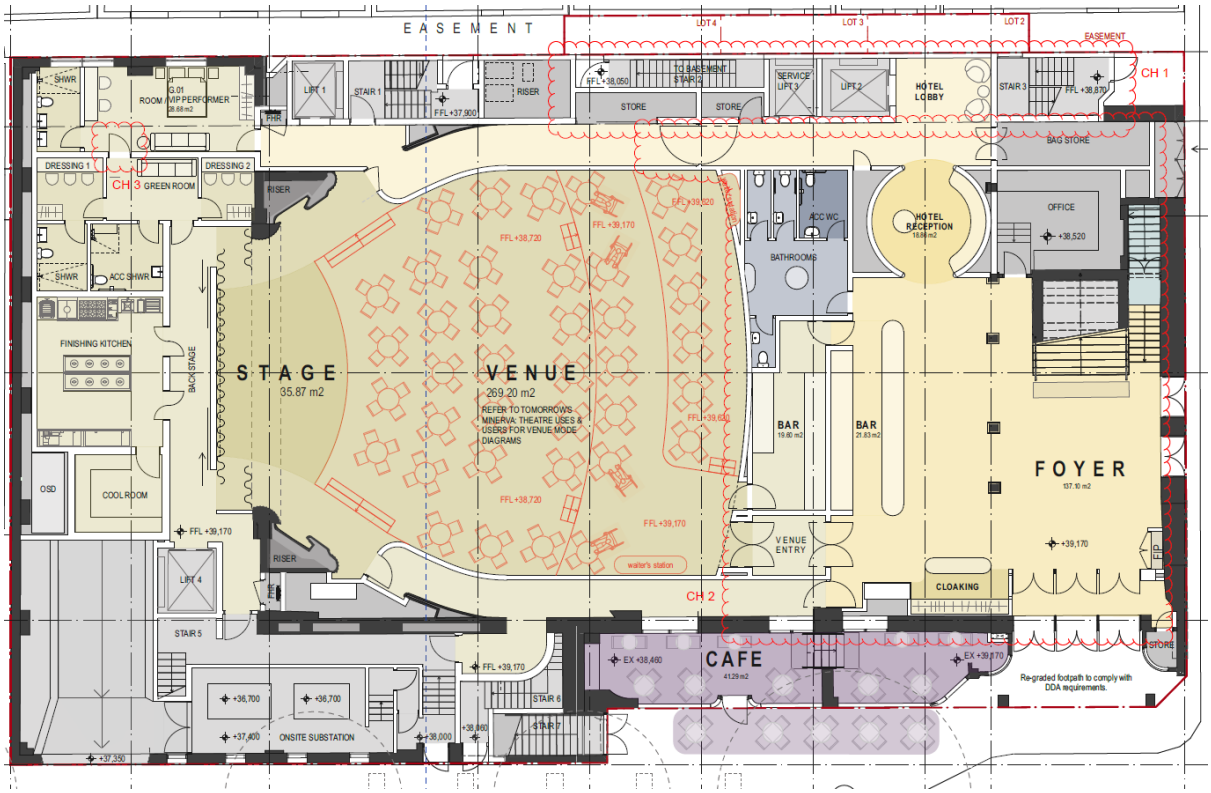


**Figure 21**: Ground floor plan

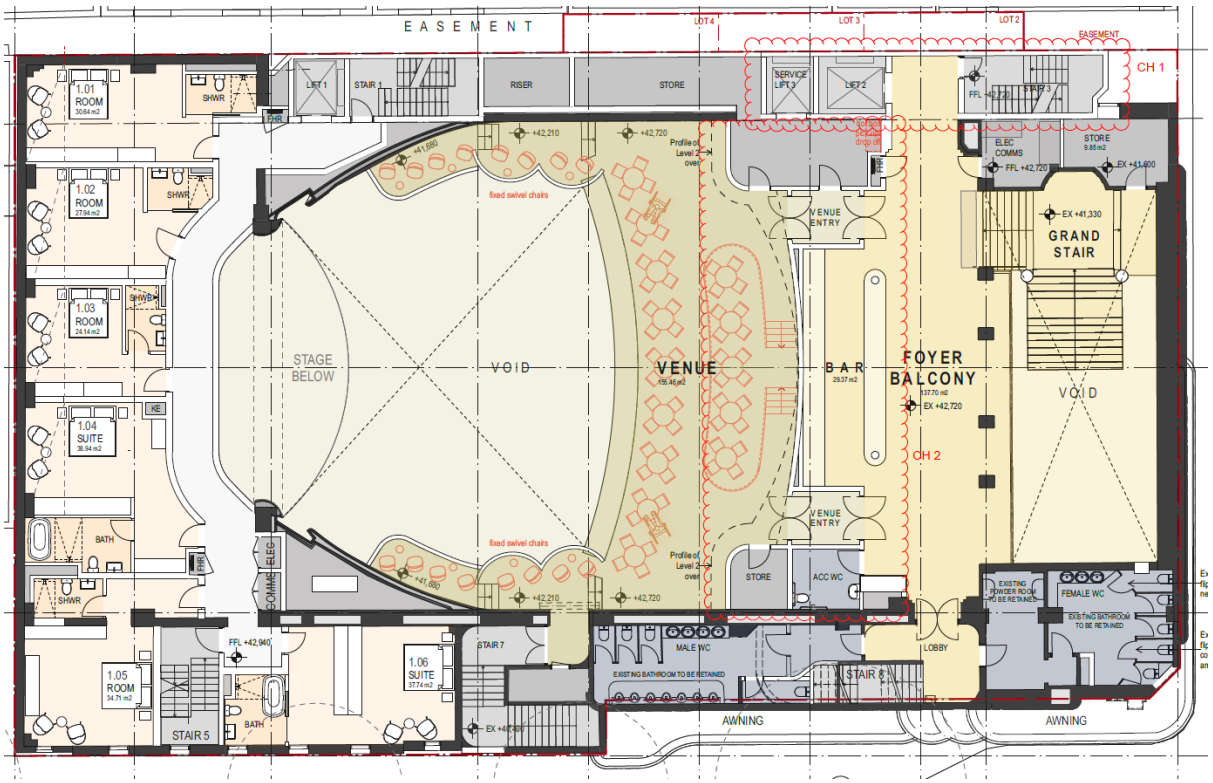


**Figure 22**: Level 1 floor plan

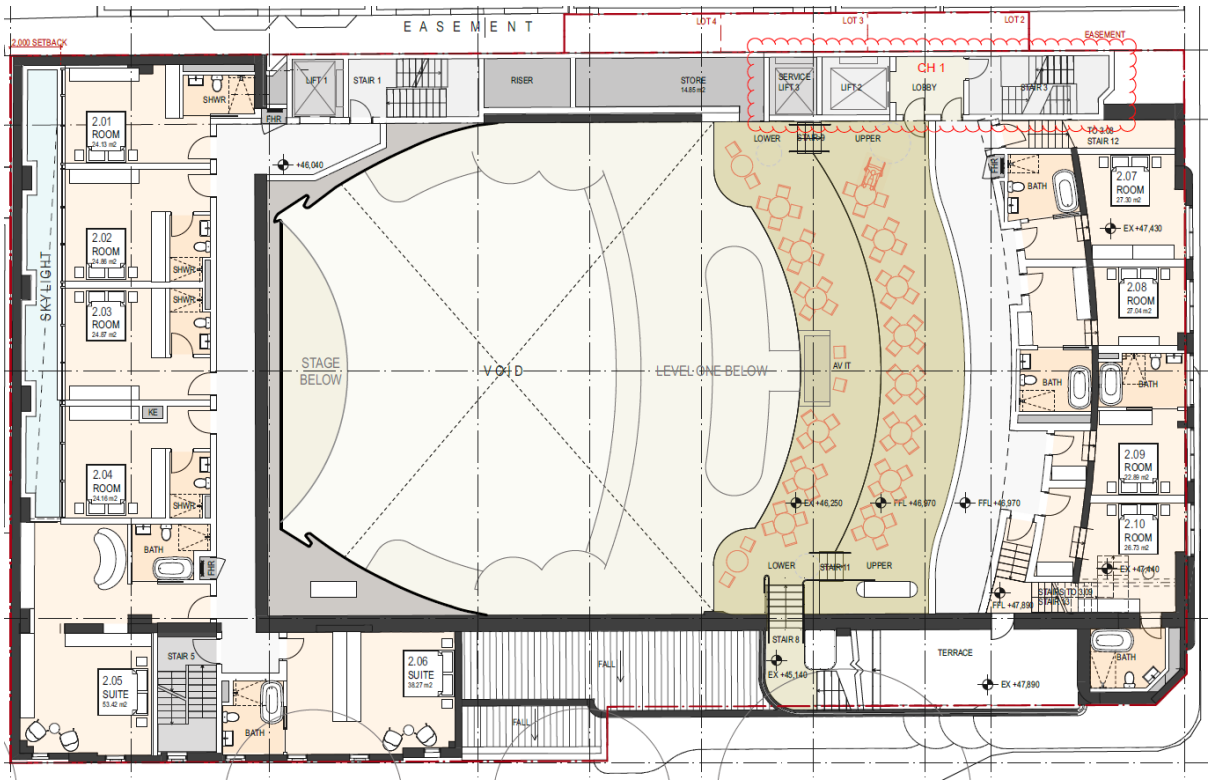


**Figure 23**: Level 2 floor plan

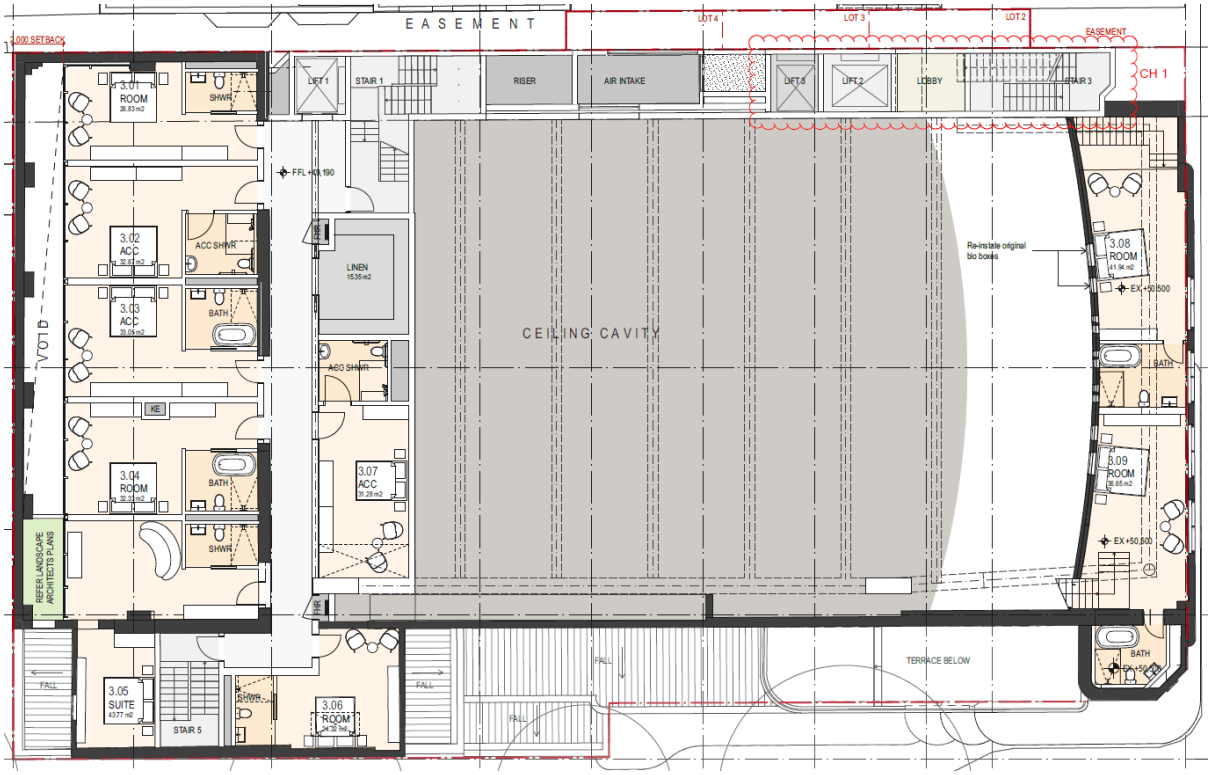


**Figure 24**: Level 3 floor plan

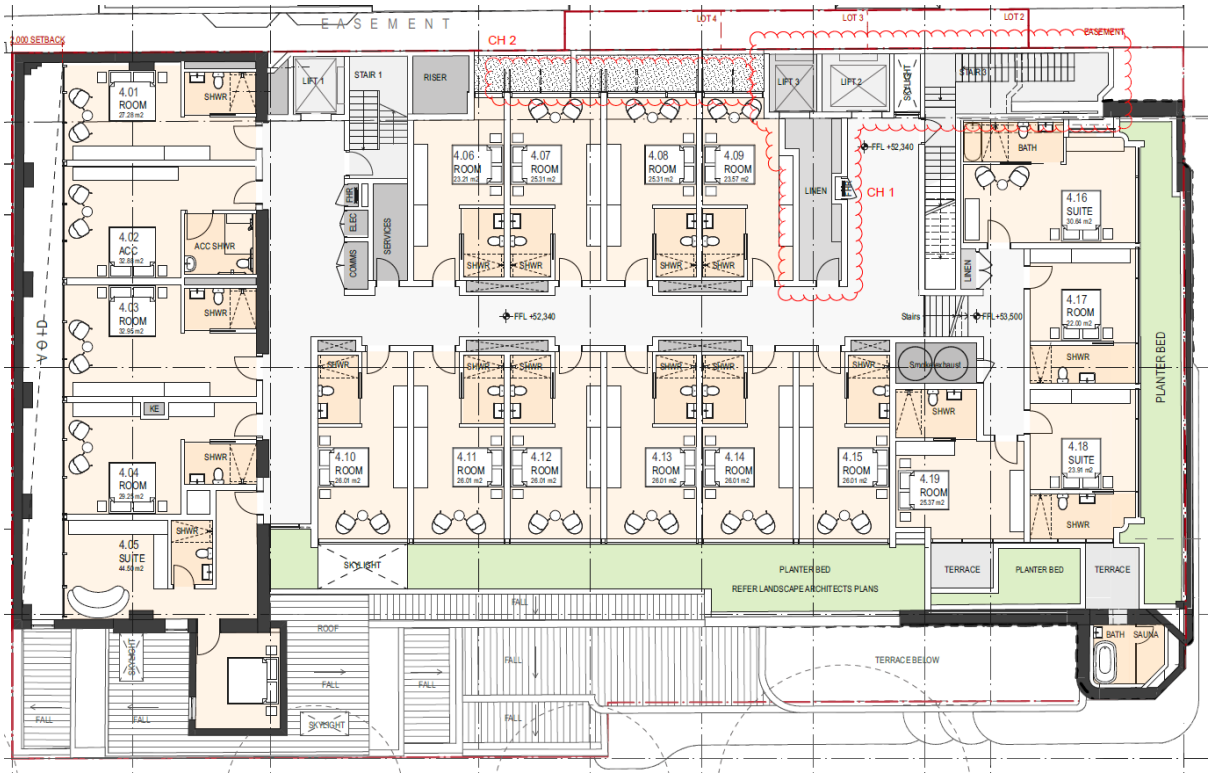


**Figure 25**: Level 4 floor plan

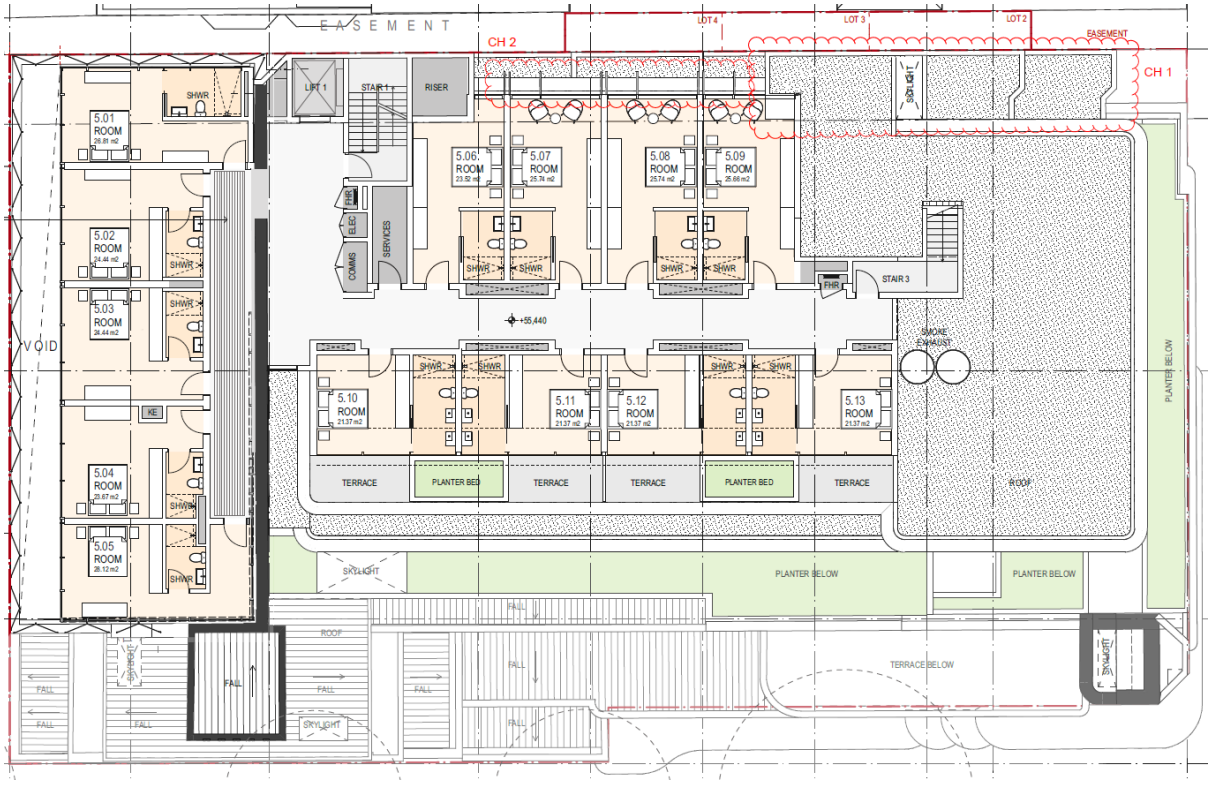


**Figure 26**: Level 5 floor plan

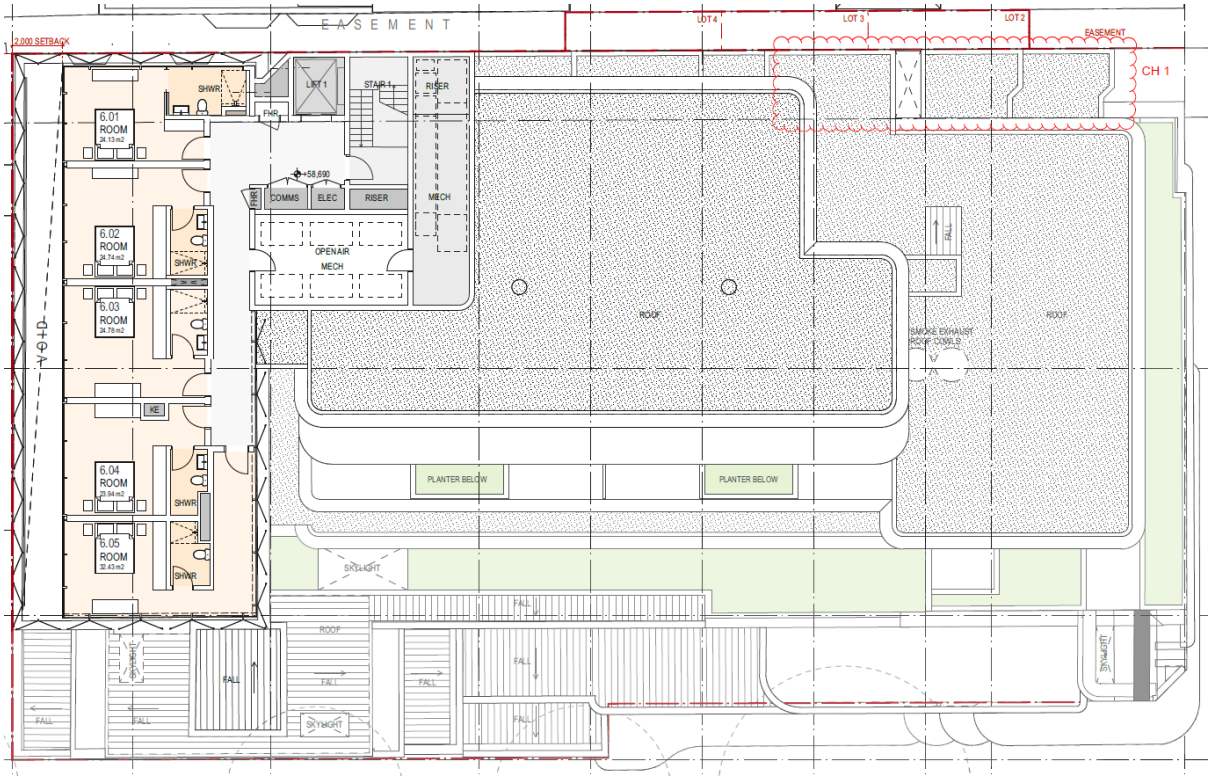


**Figure 27**: Level 6 floor plan

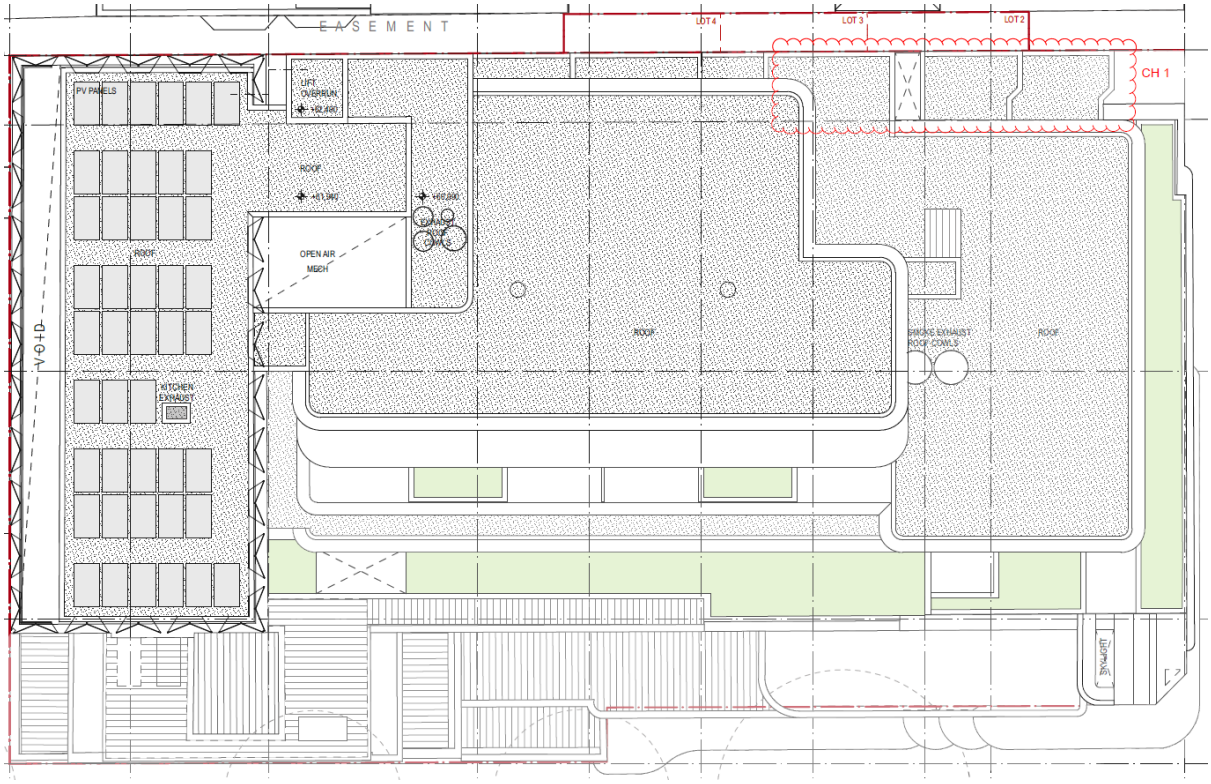


**Figure 28**: Roof plan

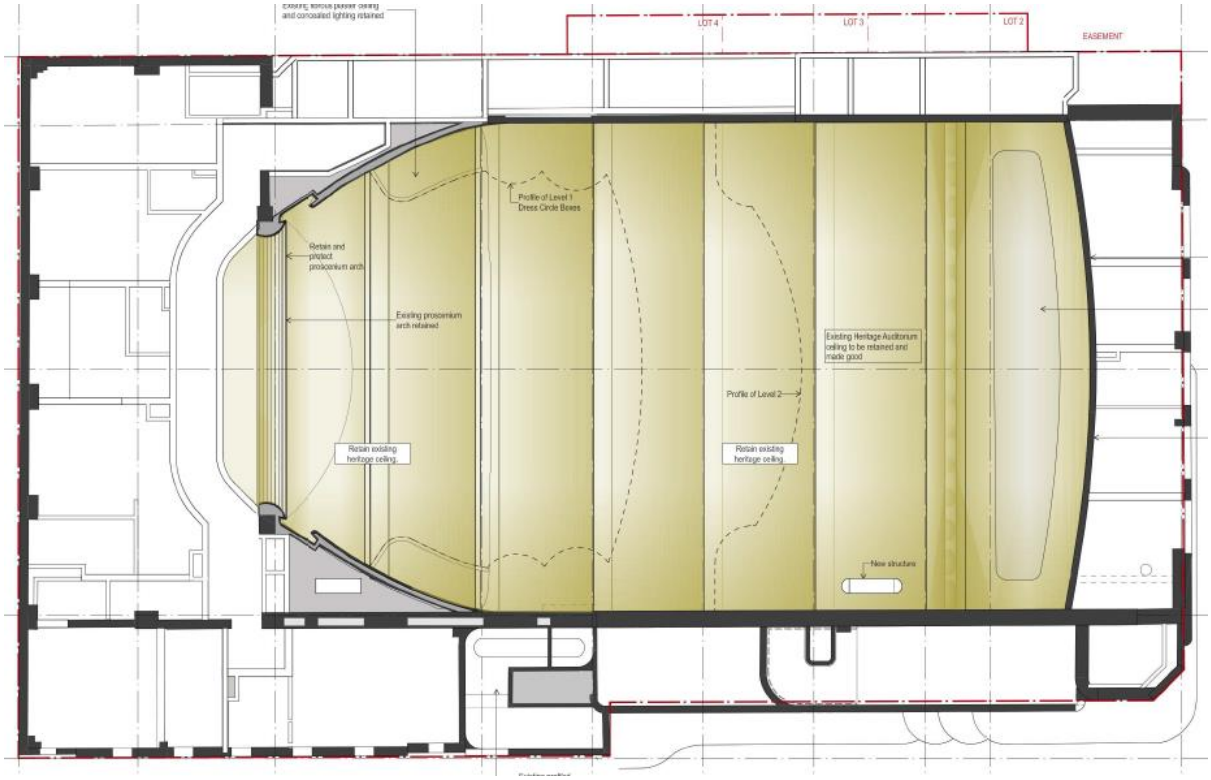


**Figure 29**: Reflected ceiling plan

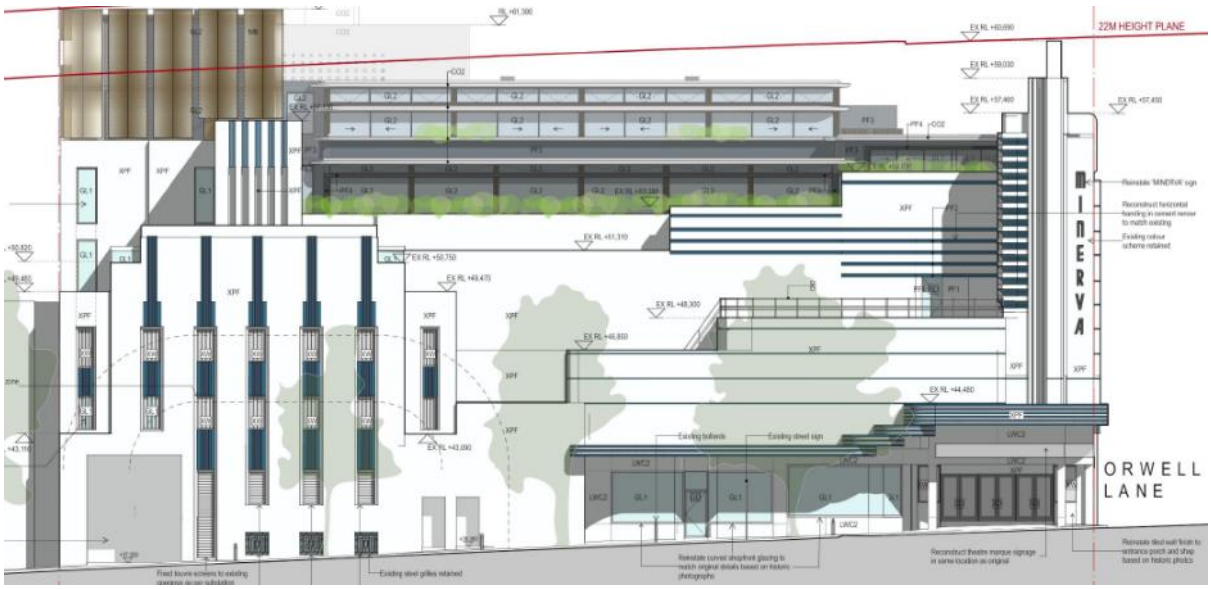


**Figure 30**: Orwell Street (south) elevation

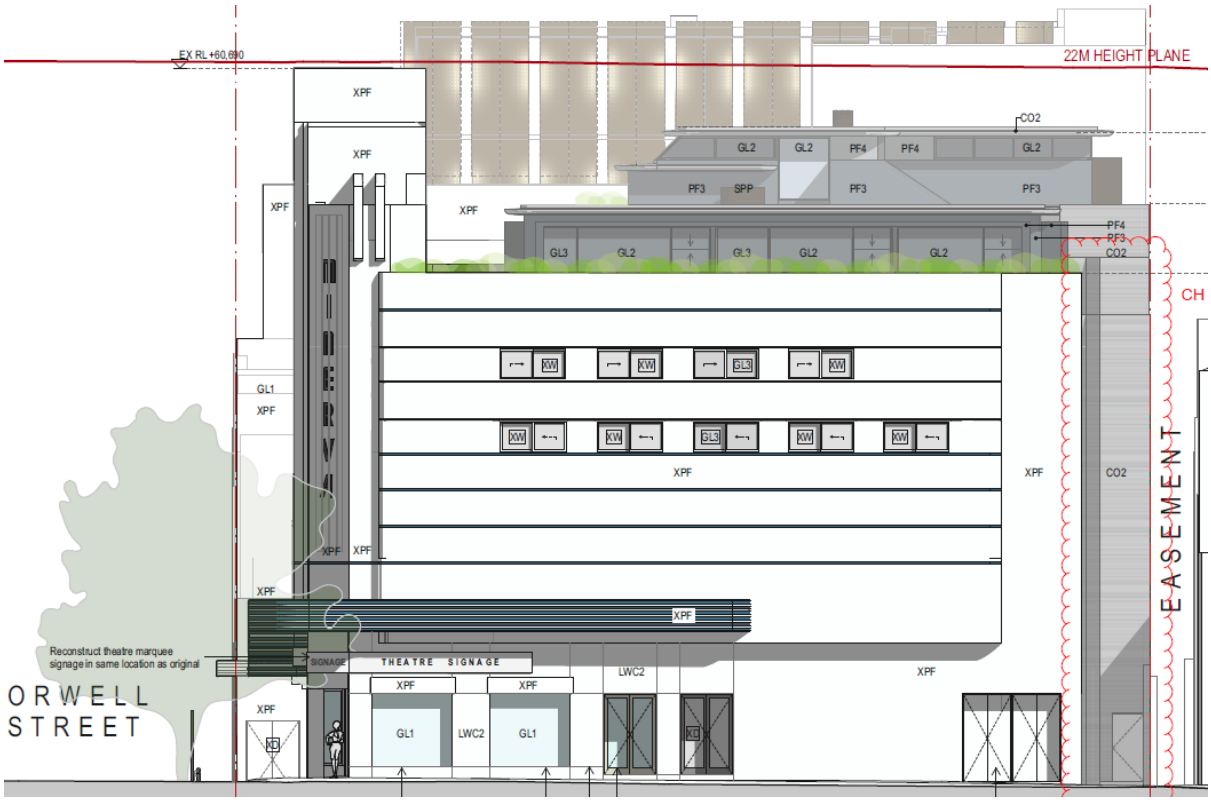


**Figure 31**: Orwell Lane (east) elevation




**Figure 32**: West elevation




**Figure 33**: North elevation




**Figure 34**: Section through the fly tower

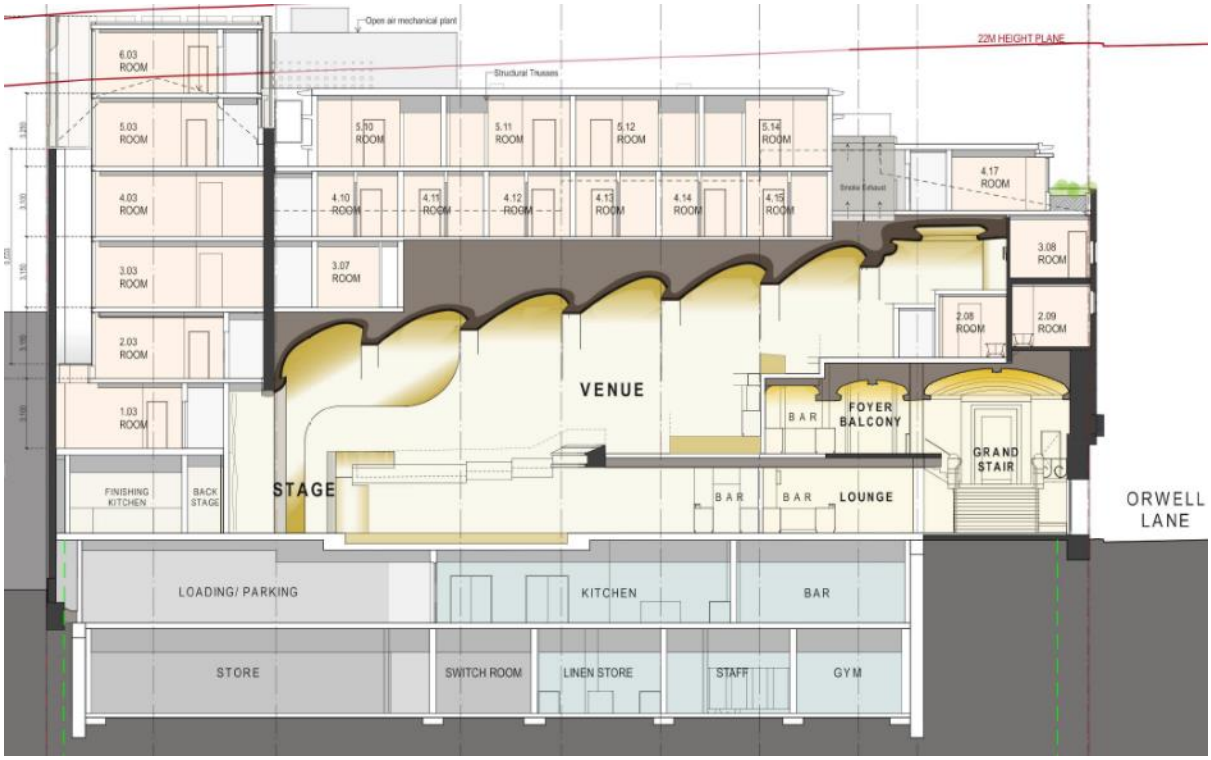


**Figure 35**: Long section

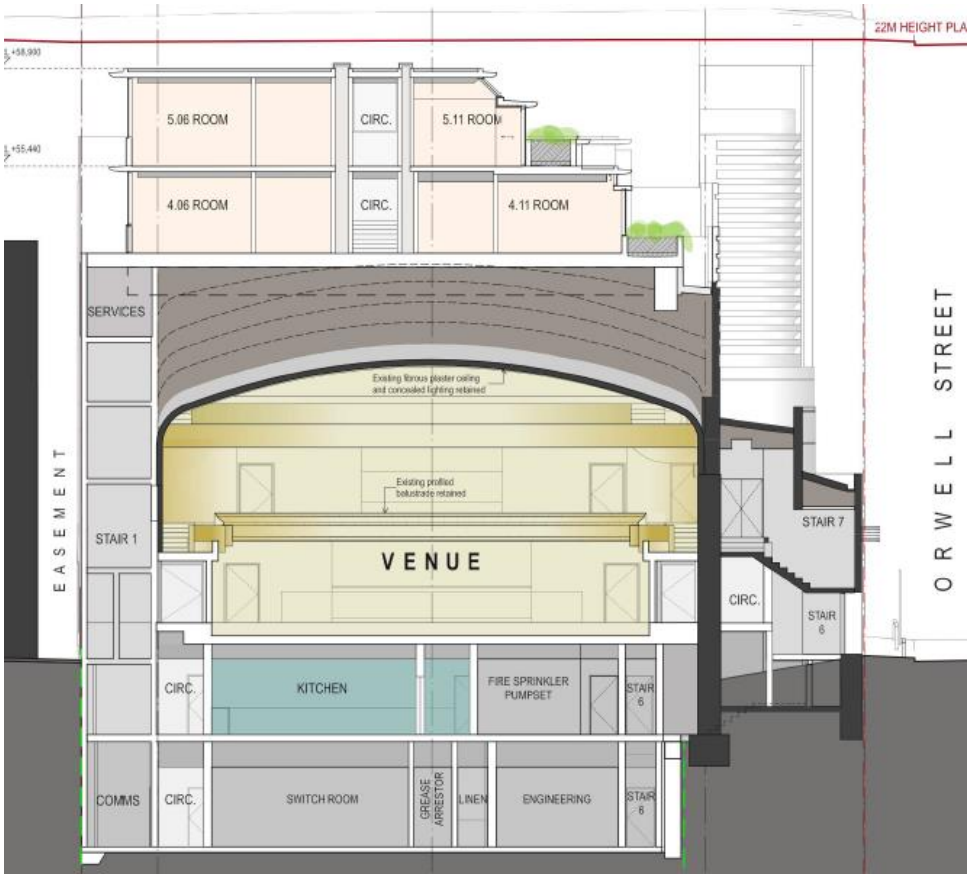


**Figure 36**: Short section




**Figure 37**: Photomontage as viewed from the corner of Orwell Street and Llankelly Place, facing north-west, with the addition to the fly tower just visible in the distance.



**Figure 38**: Photomontage as viewed from Springfield Gardens, facing north-east (with tree removed for clarity), with the new additions visible above the fly tower and existing parapet.




**Figure 39**: Photomontage viewed at night from Orwell Street towards the corner with Macleay Street, facing west.



**Figure 40**: Photomontage of an internal view of the proposed entertainment facility

## Assessment

38. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act, 1979.

### City of Sydney Act 1988

39. Development the estimated cost of which exceeds $50 million is defined as "major development" for the purposes of the City of Sydney Act 1988. Major development is referred to the Central Sydney Planning Committee for determination.

40. An amended Registered Quantity Surveyor's Detailed Cost Report and Elemental Estimate with an estimated cost of development of $69,107,997 was submitted on 29 August 2023.

41. The City engaged an independent Quantity Surveyor to carry out a peer review of the Registered Quantity Surveyor's Detailed Cost Report and Elemental Estimate, and they agree with the revised estimated cost of development. Therefore, the development application is now referred to the Central Sydney Planning Committee as the estimated cost of development exceeds $50 million.

42. Refer to the further details provided under the 'Estimated Cost of Development and Delegations' sub-heading in the ‘Discussion’ section below.

**Environmental Planning and Assessment Regulation 2021**

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

> The 2000 Regulation continues to apply instead of this Regulation to a development application and an application for a complying development made but not finally determined before 1 March 2022.

44. The subject development application was made prior to 1 March 2022 and the Environmental Planning and Assessment Regulation, 2000 applies to the proposal as a result.

**Heritage Act 1977**

45. The subject site is listed as an item known as The Metro Theatre (formerly Minerva) on the State Heritage Register under the Heritage Act, 1977 (State Heritage Register Number 02049).

46. As Integrated Development requiring approval under the Heritage Act, 1977, a copy of the application was referred to the Heritage Council of New South Wales on 12 August 2021, in accordance with Clause 66 of the Environmental Planning and Assessment Regulation 2000.

47. On 6 September 2022, the Heritage Council of New South Wales issued General Terms of Approval (GTAs).

48. As the proposal was subsequently amended, it was re-referred to the Heritage Council on 9 March 2023.

49. On 30 May 2023, Heritage New South Wales, as delegate of Heritage Council of New South Wales issued updated GTAs.

50. Further amendments were made to the proposal, and it was re-referred to the Heritage Council on 29 August 2023.

51. On 16 October 2023, Heritage New South Wales, as delegate of Heritage Council of New South Wales issued updated GTAs (Attachment D), which have been incorporated in Attachment A (conditions of consent).

52. Refer to the further details and assessment provided under the 'Heritage' sub-heading in the ‘Discussion’ section below.

## State Environmental Planning Policies

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

53. 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.

54. Site investigations have identified that contaminants associated with petroleum infrastructure are present on the site, including pumps, traps, pipelines and a generator.

55. A Remediation Action Plan (RAP) for the site has been submitted with the application. The author of the RAP is registered with the New South Wales Environment Protection Authority.

56. The RAP proposes the off-site disposal of impacted materials to a licensed waste landfill facility.

57. The Council's Health and Building 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.

58. The Council's Health and Building Unit is satisfied that, subject to conditions, the site can be made suitable for the proposed use. These conditions are included in Attachment A.

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

59. The aim of Chapter 3 of the Industry and Employment SEPP is to ensure that outdoor advertising is compatible with the desired amenity and visual character of an area, provides effective communication in suitable locations and is of high quality design and finish.

60. The proposed signage, comprising the reinstatement of the corner building sign 'Minerva', has been considered against the objectives of the policy.

61. An assessment against the provisions within the criteria set out in Schedule 5 of the Industry and Employment SEPP is provided in the table below.

| Provision | Compliance | Comment |
|---|---|---|
| 1. Character of the area | Yes | The proposed signage is generally consistent with the character of the area, subject to conditions. |
| 2. Special areas | Yes | The proposed signage does not detract from the amenity or visual quality of the locality or the heritage conservation area, subject to conditions. |
| 3. Views and vistas | Yes | The proposed signage does not obscure or compromise any important views. It does not dominate the skyline and has no impact on the viewing rights of other advertisers. |

| Provision | Compliance | Comment |
|---|---|---|
| 4. Streetscape, setting or landscape | Yes | The proposed signage is of an appropriate scale, proportion and form and provides a positive contribution to the streetscape and setting of the area. |
| 5. Site and building | Yes | The scale, proportion and positioning of the proposed signage is acceptable, and the materiality is compatible with the finishes and colours of the building. |
| 6. Associated devices and logos | Yes | Not applicable |
| 7. Illumination | Yes | Not applicable |
| 8. Safety | Yes | The proposed signage will not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas. |

62. The proposed signage is consistent with the objectives of Chapter 3 of the Industry and Employment SEPP as set out in Clause 3.1 and satisfies the assessment criteria specified in Schedule 5.

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

63. The relevant provisions of the Transport and Infrastructure SEPP have been discussed in the assessment provided under the heading below.

**Division 5, Subdivision 2: Development likely to affect an electricity transmission or distribution network**

**Clause 2.48 Determination of development applications – other development**

64. The application is subject to Clause 2.48 of the Transport and Infrastructure SEPP as the development will be carried out immediately adjacent to an electricity substation.

65. As such, the application was referred to Ausgrid for a period of 21 days and no objection was raised, subject to conditions included in Attachment A.

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

66. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 10 of the Biodiversity and Conservation SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.

67. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. The site is not located in the Foreshores Waterways Area or adjacent to a waterway however and, with the exception of the objective for improved water quality, the objectives of Chapter 10 of the Biodiversity and Conservation SEPP are not applicable to the proposed development.

68. Subject to the conditions included in Attachment A relating to stormwater management and quality, soil erosion and sediment control, the proposal satisfies the objective for improved water quality.

## Local Environmental Plans

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

69. An assessment of the proposed development against the relevant provisions of the Sydney LEP 2012 is provided under the following headings and table 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.<br><br>The proposal is for a mixed use development with the proposed uses defined as entertainment facility, hotel or motel accommodation, small bar, and cafe.<br><br>The proposed uses are permissible with consent in the zone.<br><br>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 22 metres is permitted.<br><br>A height in part of of 24.92 metres is proposed.<br><br>The proposed development does not comply with the maximum height of buildings development standard. |

| Provision | Compliance | Comment |
|---|---|---|
| | | A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted.<br><br>Refer to the further details and assessment provided in the 'Discussion' section below. |
| 4.4 Floor space ratio (FSR) | Yes | A maximum FSR of 3.5:1, or 4,433.3 square metres of gross floor area (GFA) is permitted on the site.<br><br>The applicant submits that an FSR of 3.35:1, or 4,240.4 square metres of GFA is proposed.<br><br>When calculated in accordance with the definition of GFA in the Dictionary of the Sydney LEP 2012, the FSR is calculated to be 3.49:1, or 4,416.75 square metres of GFA.<br><br>The proposed development complies with the maximum floor space ratio development standard.<br><br>The difference in the calculation of gross floor area arises due to the applicant's exclusion of above ground storage (including linen and cool rooms), part of rooms 1.01-1.03, and the garbage room (which is not defined as a basement at that point of the building).<br><br>Additionally, to ensure compliance with the floor space ratio development standard, a condition is included in Attachment A requiring that a wall and door are located between the 'equipment store' and gymnasium located on basement level 2, to ensure that the 'equipment store' space is used for storage only. |
| 4.6 Exceptions to development standards | Yes | The proposed development seeks to vary the development standard prescribed under Clause 4.3 Height of Buildings. |

| Provision | Compliance | Comment |
|---|---|---|
| | | A written Clause 4.6 variation request has been submitted with the application, which is supported.<br><br>Refer to the further details and assessment provided in the 'Discussion' section below. |

**Part 5 Miscellaneous provisions**

| Provision | Compliance | Comment |
|---|---|---|
| 5.10 Heritage conservation | Yes | The site is a state heritage item, local heritage item and located within a heritage conservation area. The site is also adjacent to a local heritage item, being an electrical substation at 1 Orwell Lane.<br><br>The proposed development will have some impact on the significance of the heritage item, however that impact has been determined to be acceptable by Heritage NSW who have granted General Terms of Approval.<br><br>The proposal will not have a detrimental impact on the adjoining heritage item, and conditions are recommended relating to protection during construction.<br><br>The proposal will have some impact upon the heritage conservation area, however that impact has been determined to be acceptable by Heritage NSW who have granted General Terms of Approval.<br><br>Refer to the further details and assessment provided in the 'Discussion' section below. |
| 5.20 Standards that cannot be used to refuse consent - playing and performing music | Yes | The clause provides that the consent authority must not refuse consent to development in relation to licensed premises on a number of grounds including, the playing or performance of music, whether dancing occurs, and the presence or use of a dance floor. |

| Provision | Compliance | Comment |
|---|---|---|
| | | The clause also states that the consent authority must not refuse consent to development in relation to licensed premises on the grounds of noise caused by the playing or performance of music, if the consent authority is satisfied the noise may be managed and minimised to an acceptable level.<br><br>The proposal is defined as a licensed premises under the Liquor Act, 2007.<br><br>The applicant submitted an amended Noise Impact Assessment which has been reviewed by Council's Health and Building Unit and has demonstrated that the noise can be managed and minimised to an acceptable level.<br><br>Refer to the further details and assessment provided in the 'Discussion' section below. |
| 5.21 Flood planning | Yes | The site is located within a flood planning area.<br><br>The proposal has been reviewed by the City's Public Domain team and is acceptable in relation to flood behaviour, safe occupation and evacuation, risk to life, and impact on the environment, subject to recommended conditions in Attachment A. |

**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 of architectural design and uses materials and detailing which are compatible with the existing building type and location.<br><br>The form and external appearance of the development will improve the quality and amenity of the public domain. |

| Provision | Compliance | Comment |
|---|---|---|
| | | The proposal will not detrimentally impact on view corridors, as detailed under the 'Discussion' heading below.<br><br>The proposal has considered heritage and streetscape constraints.<br><br>The bulk, massing and modulation of the proposal is appropriate. In particular, the stepped back form of the addition minimises its visual impact when viewed from the street and minimises overshadowing impacts to the park opposite the site.<br><br>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to overshadowing and solar access, visual and acoustic privacy, and noise.<br><br>The proposed development exhibits design excellence. |

**Part 7 Local provisions – general**

| Provision | Compliance | Comment |
|---|---|---|
| Division 1 Car parking ancillary to other development | | |
| 7.7 Retail premises<br><br>7.9 Other land uses | Yes | A maximum number of car parking spaces are permitted as follows:<br><br>Entertainment facility - 42 spaces<br><br>Hotel accommodation - 16 spaces<br><br>Cafe - 1 space<br><br>Small bar - 4 spaces<br><br>Total - 63 spaces<br><br>The proposed development includes 2 car parking spaces and complies with the maximum car parking standard.<br><br>It is noted that there is no minimum car parking requirement. |

| Provision | Compliance | Comment |
|---|---|---|
| Division 3 Affordable housing | | |
| 7.13 Contribution for the purpose of affordable housing | Yes | The LEP clause outlines that the consent authority may impose a condition requiring a contribution equivalent to the applicable affordable housing levy contribution.<br><br>An affordable housing levy contribution for development on residual land of 0.5% of the total floor area of the development, being 6,490.9 square metres, as the development application was lodged before 1 July 2022. A condition is included in Attachment A requiring a contribution to be paid prior to the issue of a Construction Certificate. |
| Division 4 Miscellaneous | | |
| 7.14 Acid Sulfate Soils | Yes | The site is located on land with class 5 Acid Sulfate Soils.<br><br>The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan. |

## Development Control Plans

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

70. An assessment of the proposed development against the relevant provisions within the Sydney DCP 2012 is provided under the following headings and table sections.

### Section 2 – Locality Statements

71. The site is identified in Section 2.4.7 of the Sydney DCP 2012 as being located within the Kings Cross locality, the extent of which is shown in the map extract reproduced in the figure provided below.

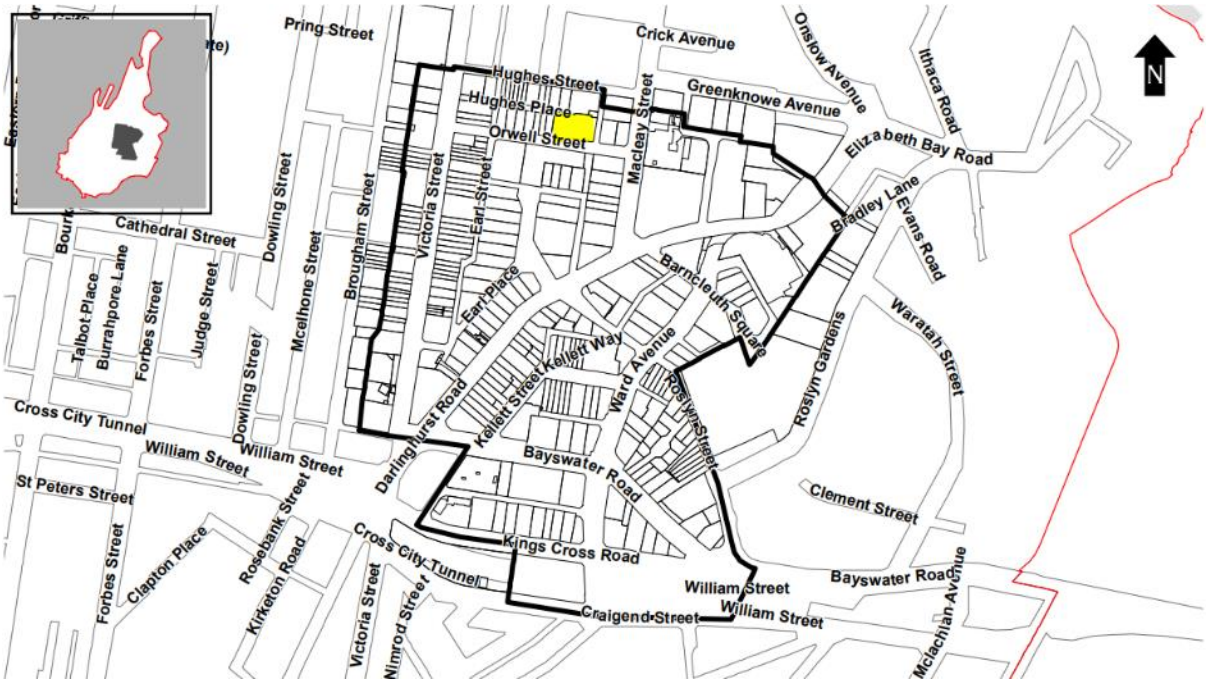


**Figure 41**: The Kings Cross locality, with the site identified in yellow.

72. Relevant sections from the character statement for the locality include that:

(a) Kings Cross has long been recognised as an international and regional destination for tourism and entertainment, with international, regional, and local roles to play.

(b) The area's role as a centre is to be strengthened by capitalising on its proximity to public transport, and by providing commercial and retail services for existing and future residents and visitors alike. The centre is to be consolidated with Orwell Street promoting active retail and commercial uses to improve the link between Darlinghurst Road, Macleay Street, Llankelly Place and Victoria Street.

73. An assessment against the relevant principles of the Kings Cross locality is provided in the table sections below.

74.

| Principle | Compliance | Comment |
|---|---|---|
| (a) Development must achieve and satisfy the outcomes expressed in the character statement and supporting principles | Yes | The proposal is consistent with the outcomes expressed in the character statement, as it enhances the tourism and entertainment of the locality, and as it consolidates Orwell Street as part of the centre of the locality. |

| Principle | Compliance | Comment |
|---|---|---|
| (b) Development is to respond to and complement subdivision, heritage items and contributory buildings within heritage conservation areas, including streetscapes and lanes | Yes | Heritage NSW found the heritage impacts of the proposed development to be acceptable and have granted General Terms of Approval.<br><br>The proposal does not impact upon the subdivision pattern of the area.<br><br>The impact upon the heritage conservation area is discussed under Section 5.10 of the Sydney LEP 2012 |
| (c) Maintain the built form structure of the neighbourhood with taller buildings located predominantly along the ridge line and at the crossing of Victoria Street and Darlinghurst Road | Yes | The proposal generally maintains the built form structure of the neighbourhood.<br><br>Refer to the further details and assessment provided in the 'Discussion' section below with regard to the proposed height of the development. |
| (e) Maintain view corridors along Orwell Street and over terraces along Victoria Street towards the city skyline | Yes | The impacts to view corridors along Orwell Street have been assessed as acceptable.<br><br>Refer to the further details and assessment provided in the 'Discussion' section below with regard to view sharing and view loss. |
| (h) Retain the unique skyline elements of existing buildings that exceed the height context however these buildings do not set the precedent for future building heights | Yes | The proposal allows for the unique skyline of the locality to be generally retained. |
| (l) Encourage active retail and commercial uses on Orwell Street to improve the link between activities along Darlinghurst Road, Macleay Street, Llankelly Place and Victoria Street and the activity and surveillance of the pocket park on Orwell Street | Yes | The proposal provides retail and active uses to Orwell Street and will result in the increase in activity in and surveillance of the pocket park on Orwell Street. |

| Principle | Compliance | Comment |
|---|---|---|
| (n) Encourage outdoor eating in Llankelly Places to expand the existing laneway character | Yes | The site is located opposite the northern end of Llankelly Place and provides the possibility of outdoor eating in Orwell Street associated with the cafe on site (subject to a future footway application). |
| (o) Encourage employment opportunities and provide a range of non-residential uses on Darlinghurst Road that support the existing high population density of Kings Cross and serve its international, regional, and local function including retail, business, entertainment, food and drink, cultural, and community uses | Yes | The proposal provides employment opportunities within the locality. |
| (q) Increase uses that provide all day activity, particularly those that serve the broader community's social, cultural, and entertainment needs | Yes | The proposed entertainment facility will serve the community's social, cultural and entertainment needs. |
| (r) Encourage interesting development that references the socio-historic significance of Darlinghurst Road and supports community diversity and harmony | Yes | The proposal provides an entertainment facility use that will contribute to the diverse offerings of the locality. |

75. The proposed development is in keeping with the character and the design principles for the Kings Cross locality.

**Section 3 – General Provisions**

| Provision | Compliance | Comment |
|---|---|---|
| 3.1 Public Domain Elements | | |
| 3.1.5 Public Art | Yes | A preliminary public art plan has been submitted with the development application.<br><br>A condition is included in Attachment A to ensure the delivery of appropriate public art on the site. |

| Provision | Compliance | Comment |
|---|---|---|
| 3.2. Defining the Public Domain | | |
| 3.2.1.1 Sunlight to Publicly Accessible Spaces | Yes | Overshadowing effects of new development on publicly accessible open space is to be minimised between the hours of 9am to 3pm. The design of the addition has provided a stepped building form to setback the upper levels, in order to minimise overshadowing impacts to Springfield Gardens which satisfies the control.<br><br>It is also noted that during the assessment of the application the applicant put forward an option to reduce the street setback of the upper level, which resulted in additional overshadowing impacts to the park, which was not supported.<br><br>The final amended proposal has not increased overshadowing beyond the extent originally proposed. |
| 3.2.1.2 Public Views | Yes | The proposal does not impede views from the public domain to highly utilised public places, parks, Sydney Harbour, heritage buildings or monuments. |
| 3.2.2 Addressing the Street and Public Domain | Yes | The proposed design positively addresses the street and provides visibility to the building foyer at ground level. |
| 3.2.7 Reflectivity | Yes | Light reflectivity from building materials used on facades must not exceed 20%.<br><br>A condition is included in Attachment A to ensure that reflectivity from the proposal does not exceed 20%. |
| 3.2.8 External Lighting | Yes | The indicative night photomontage shows uplighting to the building, however no details of external lighting have been provided with the application. |

| Provision | Compliance | Comment |
|---|---|---|
| | | A condition is included in Attachment A requiring that any external lighting is the subject of a separate development application. |
| 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 | Yes | A 'Design for Environmental Performance' report was submitted with the development application which sets out the environmental commitments for the development. The applicant also provided information with the application, indicating self-imposed environmental sustainability initiatives.<br><br>A condition is included in Attachment A requiring that this report be updated to incorporate thermal bridging information to ensure self-imposed initiatives are incorporated and include the output capacity for photovoltaic systems. |
| 3.7 Water and Flood Management | Yes | The site is identified as being within a flood planning area.<br><br>Refer to the discussion provided above in relation to Section 5.21 of the Sydney LEP 2012. |
| 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.<br><br>A condition is included in Attachment A to require that all land titles within the site must be consolidated into one allotment. |
| 3.9 Heritage | | |
| 3.9.1 Heritage Impact Statements | Yes | A Heritage Impact Statement (HIS) prepared by Tonkin Zulaikha Greer Heritage has been submitted with the application. |

| Provision | Compliance | Comment |
|---|---|---|
| | | The HIS has provided its assessment based on the gradings of fabric contained within the Conservation Management Plan (CMP) for the site prepared by Tanner Kibble Denton Architects in 2020, and the Heritage Assessment prepared by Urbis for the City of Sydney in 2018.<br><br>The Urbis Heritage Assessment had been prepared prior to the listing of the site on the State Heritage Register to assess that the building was of State heritage significance.<br><br>Where there was a difference in grading of heritage fabric between the CMP and the Heritage Assessment, the HIS adopted the higher grading of significance. |
| 3.9.2 Conservation Management Plans | Yes | A Conservation Management Plan (CMP) was prepared for the site by Tanner Kibble Denton Architects in 2020. |
| 3.9.3 Archaeological assessments | Yes | The site has archaeological remains under the existing building, comprising the remnant footings and foundations of Orwell House, an 1820s building.<br><br>Heritage New South Wales requested that archaeological test excavations occur, which were facilitated under development consent D/2022/57.<br><br>The findings of the test excavations were considered by the archaeological team at Heritage New South Wales, and the General Terms of Approval (GTA's) granted on 6 September 2022 included a deferred commencement condition requiring a revised assessment of significance to determine if recording and complete removal is the most appropriate management option for the remains.<br><br>Heritage NSW and the applicant held an archaeological workshop, and the applicant submitted a detailed response addressing the NSW Heritage Criteria, |

| Provision | Compliance | Comment |
|---|---|---|
| | | being historic significance, associative significance, aesthetic significance, social significance, research potential, rarity and representative. This information was reviewed by Heritage NSW and the removal of the footings and foundations of Orwell House was considered to be acceptable. The GTA's granted on 30 May 2023 deleted the deferred commencement condition but include a condition that requires an Archaeological Research Design and Excavation Methodology to be submitted as part of the Section 60 Application to ensure the salvage of any Orwell House remains. The GTA's granted on 16 October 2023 are consistent with the GTA's granted on 20 May 2023 in relation to archaeology. |
| 3.9.4 Development of sites of State heritage significance or containing more than one heritage item | Yes | A bespoke Heritage Committee is required to be appointed to examine and advise on the merits of the proposal. The consent authority can only grant consent for proposed development for sites of State heritage significance after considering the advice of the committee.<br><br>A heritage committee was formed and provided a report to the City on 1 July 2022, which is reproduced at Attachment E.<br><br>Refer to the further details and assessment provided under the 'Discussion' heading below. |
| 3.9.5 Heritage items | Yes | Development affecting a heritage item must minimise the extent of change to significant fabric, elements or spaces. It should also enhance the heritage item by removing unsympathetic alterations and additions and reinstating missing details.<br><br>Refer to the further details and assessment provided under the 'Discussion' heading below. |

| Provision | Compliance | Comment |
|---|---|---|
| 3.9.6 Heritage conservation areas | Yes | The new additions are designed to respect the heritage conservation area and the neighbouring buildings. They complement the existing character of the building but are modern and not a replica.<br><br>The building form is compatible with the anticipated built form envisaged in the controls for heritage conservation areas. |
| 3.9.10 Building materials for heritage items and buildings within heritage conservation areas | Yes | The proposed materiality of the existing building is generally maintained and enhanced.<br><br>The new materials are modern and sympathetic to the subject heritage item and surrounding heritage conservation area, in terms of their quality, colours and finishes subject to the conditions included in Attachment A. |
| 3.9.11 Conservation of public domain features in heritage conservation areas | Yes | Features like stone kerbing, guttering and paving will be retained along all street frontages of the site. |
| 3.9.13 Excavation in the vicinity of heritage items and in heritage conservation areas | Yes | The application proposes excavation beneath a heritage item. The proposed excavation has been supported by a Geotechnical report and a Structural report and amendments were requested by the Technical Advisory Panel of Heritage New South Wales. The application was amended to reduce the extent of basement excavation from 4 levels to 2 levels, and by reducing the footprint of excavation, and the extent of excavation is considered satisfactory.<br><br>The DCP provision states that excavation will not be permitted if it will occur under common walls and footings to common walls, or freestanding boundary walls or under any other part of adjoining land, and if it occurs under or forward of the front facade.<br><br>Part of the proposed excavation adjoins the boundary with 25 and 27 Hughes Street for a length of 10.9 metres, however the proposed excavation is not |

| Provision | Compliance | Comment |
|---|---|---|
| | | under common walls or footings of common walls and is not adjacent to freestanding boundary walls.<br><br>The proposed excavation is not directly under or forward of the front facade of the building. |
| 3.11 Transport and Parking | | |
| 3.11.1 Managing transport demand | Yes | A condition is included in Attachment A that requires a Transport Access Guide to be prepared and submitted to the City for approval, prior to the issue of an Occupation Certificate. |
| 3.11.3 Bike parking and associated facilities | Partial compliance | The proposal requires 6 bicycle parking spaces for employees, and 25 for visitors, including 3 for the hotel, 17 for the entertainment facility, 3 for the small bar and 2 for the cafe.<br><br>A bicycle parking area for 14 bicycles is provided within Basement Level 1.<br><br>Council's Access and Transport Unit has reviewed the proposal and advised that a reduction in the provision of visitor bicycle parking spaces is warranted due to the constraints of the site, as it would be not possible to provide visitor bicycle parking spaces within the lobby without resulting in other impacts to the heritage significance of the building.<br><br>Sufficient end of trip facilities for employees have been provided. |
| 3.11.6 Service vehicle parking | Yes | The application utilises the existing vehicle entry and proposes an on-site loading space with a turntable.<br><br>The proposal satisfies the requirement for 1 service vehicle parking space for 50 to 100 hotel rooms. |
| 3.11.11 Vehicle access and footpaths | Yes | A single vehicle crossing with a turntable is proposed to avoid vehicles reversing out into the street. |

| Provision | Compliance | Comment |
|---|---|---|
| 3.12 Accessible Design | Partial compliance | The proposal meets the requirements for accessibility in relation to equitable access.<br><br>The application originally proposed 4 accessible hotel rooms, which is compliant with the requirements of the National Construction Code for 63 hotel rooms. During design amendments the number of accessible rooms was reduced to 3. Therefore, a condition is recommended that the number of accessible hotel rooms is increased from 3 to 4. It is noted that many of the hotel rooms are of sufficient size to enable conversion to an accessible room without reducing the overall number of hotel rooms. |
| 3.13 Social and Environmental Responsibilities | Yes | The proposed development provides adequate passive surveillance and is generally designed in accordance with the Crime Prevention Through Environmental Design (CPTED) principles. |
| 3.14 Waste | Yes | A condition is included in Attachment A to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development. |
| 3.15 Late Night Trading Management | | |
| 3.15.1 General | Yes | The Sydney DCP 2012 sets out base and extended trading hours and provides definitions for Category A (High Impact Premises), Category B (Low Impact Premises) and Category C (Retail and Business premises).<br><br>The proposed entertainment facility is proposed to operate with up to 250 patrons and is defined as a Category B premises.<br><br>It is noted that the application has been amended to delete the request to |

| Provision | Compliance | Comment |
|---|---|---|
| | | operate the entertainment facility with 450 patrons for 20 days per year.<br><br>The cafe and small bar are defined as Category B premises. |
| 3.15.2 Late night trading areas | Yes | The Sydney DCP 2012 identifies a hierarchy of three late night trading areas located throughout the City.<br><br>The site is located within a Local Centre area which is the lowest intensity of the three late night trading areas. |
| 3.15.3 Matters for consideration | Yes | Appropriate trading hours for late night trading premises will be determined by taking into account a number of issues, including the location and context of the premises, proximity to residential land uses and other late night trading premises, and the likely impact on amenity including noise, and the ability to manage the impacts.<br><br>An acoustic report has been submitted with the application, which has demonstrated that the proposed use is capable of operating within an acceptable noise criteria, in terms of the hours of operation and maximum capacity proposed.<br><br>Refer to the further details and assessment provided under the 'Discussion' heading below. |
| 3.15.4 Trading hours and trial periods | No | The Sydney DCP 2012 identifies base and extended trading hours with the three late night trading areas.<br><br>The proposed trading hours do not comply with the permitted base and extended trading hours.<br><br>Refer to the further details and assessment provided under the 'Discussion' heading below. |
| 3.15.4(2) Extended indoor hours | No | The Sydney DCP 2012 permits extended indoor hours of Category B premises in Local Centre Areas up to |

| Provision | Compliance | Comment |
|---|---|---|
| | | 2am where entry and egress of all patrons will be onto a main street and not onto a laneway which abuts residential properties or into a predominantly residential area.<br><br>The Sydney DCP 2012 maps indicate that Orwell Street is not a 'main street' and therefore the proposed use is not eligible for these extended hours. |
| 3.15.4(6) Extended trading hours beyond base hours | Partial Compliance | Extended trading hours beyond the base hours may be permitted at the initial application stage, but only where the Council has determined that the premises have been or will be well managed.<br><br>The proposed hours are beyond the base hours.<br><br>Refer to the further details and assessment provided under the 'Discussion' heading below. |
| 3.15.4(9) Trial periods | Yes | Trial periods are permitted to be for one year for the first trial, two years for the second trial, and five years for the third and subsequent trials.<br><br>Extended hours are to be restricted to a one-year period, as it will be the first trial. |
| 3.15.4(16) Additional hour for dedicated performance venues | Yes | Venues which are a Category B dedicated performance venue and located within a late night trading area, may be permitted one additional indoor hour at closing time on a trial period basis.<br><br>The proposed entertainment facility is a dedicated performance venue and is eligible for an additional trading hour until 1am.<br><br>Refer to the further details and assessment provided under the 'Discussion' heading below. |

| Provision | Compliance | Comment |
|---|---|---|
| 3.15.4(17) Additional operating hours for venues including performance, creative or cultural uses | No | Category B premises which are located within a late night trading area and provide indoor space with the capacity for performance, creative and cultural uses may be permitted an additional indoor operating hour at closing time on the night the premises provides performance.<br><br>These provisions exclude a dedicated performance venue, and therefore the proposed entertainment facility is not eligible for an additional operating hour under these provisions.<br><br>The applicant seeks to utilise these provisions for an additional operating hour for the proposed small bar. The Sydney DCP 2012 requires that venues must demonstrate their capacity to provide performance.<br><br>The submitted Plan of Management indicates that the specific performance, creative or cultural use will be confirmed following the formal appointment of the hotel operator.<br><br>The small bar is not eligible for an additional operating hour under these provisions at this time as it has not demonstrated the capacity to provide performance as required by the Sydney DCP 2012 (but may in the future). |
| 3.15.5 Plans of management requirements | Yes | A Plan of Management (Attachment F) has been submitted with the development application which generally satisfies the requirements of the Sydney DCP 2012.<br><br>A condition is included in Attachment A that requires the Plan of Management to be amended to ensure that it is consistent with the conditions of consent. |

| Provision | Compliance | Comment |
|---|---|---|
| 3.16 Signage and Advertising | Yes | The application proposes the reinstatement of the 'Minerva' corner building sign. This is the reinstatement of a historic building sign and is acceptable on this basis.<br><br>A condition is included in Attachment A requiring a separate development application be submitted for any other future signage unless it is exempt development. |
| 3.16.1 Signage Strategy | Yes | A signage strategy was submitted with the development application which proposes the provision of five signage zones.<br><br>The signage strategy proposes signage on the fly tower addition which is 20 metres above the existing ground level. The Sydney DCP 2012 does not permit top of building signs higher than 15 metres unless it is permitted by a signage precinct, or the site is located in the SP5 (former B8) or E3 (former B3) zones.<br><br>The top of building sign is not supported on this basis.<br><br>The signage strategy also proposes three flat wall mounted display signs at the ground level of the Orwell Lane frontage.<br><br>The flat mounted wall signs are inconsistent with Section 3.16.6.3 of the Sydney DCP 2012 as they are do not improve the elevation of the building or its contribution to the public domain, and as they contribute to visual clutter. Additionally, the two southern-most of these signage zones are appropriate locations for public art and/or heritage interpretation, and it is recommended that these zones be used for those purposes, rather than for signage zones. |

| Provision | Compliance | Comment |
|---|---|---|
| | | A condition is included in Attachment A that requires the signage strategy to be amended to address the issues outlined above. |
| 3.16.5.2 Top of building signs | No | As discussed above, the proposed top of building sign to the fly tower addition is inconsistent with the requirements for top of building signs and is not supported on this basis. |
| 3.16.6.3 Flat mounted wall signs | No | As discussed above, the proposed flat mounted wall signs within the signage strategy are inconsistent with the requirements for flat mounted wall signs, are not supported on this basis. |
| 3.16.11 Signage related to heritage items and conservation areas | Yes | The proposed 'Minerva' corner building sign is the reinstatement of a historic sign and is acceptable on this basis. |

**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 | Partial compliance | The site is permitted a maximum building height of 6 storeys with a maximum street frontage height of 3 storeys.<br><br>The proposed development is generally 6 storeys in height, with a 7th storey to the fly tower. The existing street frontage height is maintained.<br><br>The maximum storey height can only be achieved where it can be demonstrated that the proposed development reinforces the neighbourhood character, is consistent with the scale and form of surrounding buildings in the heritage conservation area and does not detract from the character and significance of the existing building. |

| Provision | Compliance | Comment |
|---|---|---|
| | | The proposal reinforces the neighbourhood character, as discussed under the locality statement above, is compatible with the scale and form of surrounding buildings, being of equal to or greater height than the proposal. The proposal does not detract from the character or significance of the existing building, noting that General Terms of Approval have been granted by Heritage NSW.<br><br>Refer to the further details and assessment provided in the 'Discussion' section below with regard to the proposed height of the development. |
| 4.2.2 Building setbacks | Yes | The site is not subject to setback controls under the Building setback and alignment map, so the Sydney DCP 2012 requires that setback and alignment be consistent with adjoining buildings, or the adjacent or average front setback when the setback varies.<br><br>The new addition is setback by 6.28 to 8.45 metres from the Orwell Street frontage and 2 metres from the Orwell Lane frontage. The addition to the fly tower is setback by 5.1 metres from the Orwell Street frontage.<br><br>The Sydney DCP 2012 requires that the rear setback and alignment is to be consistent with adjoining buildings. The application proposes a no setback of the main addition and fly tower addition to the rear boundary. These rear setbacks are consistent with the adjacent and average rear setbacks of neighbouring buildings. |
| 4.2.3 Amenity | | |
| 4.2.3.1 Solar access | Yes | The Sydney DCP 2012 requires that apartments in neighbouring developments achieve a minimum of 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 private |

| Provision | Compliance | Comment |
|---|---|---|
| | | open space area. Additionally, new development must not create any additional overshadowing onto a neighbouring dwelling where that dwelling currently receives less than 2 hours of direct sunlight to habitable rooms and 50% of the private open space.<br><br>The site is located to the north west of a residential building at 113-115 Macleay Street, known as Gowrie Gate.<br><br>The proposal results in additional overshadowing to the windows on the lowest level of residential uses at 3pm, however maintains the existing level of solar access at other times, and 2 hours of direct sunlight is maintained.<br><br>The site is located to the north of three residential flat buildings and a backpacker's accommodation on the opposite side of a reserve called Springfield Gardens.<br><br>The proposal results in some minimal additional overshadowing to these buildings, however 2 hours of direct sunlight is maintained to the front facade of these buildings. |
| 4.2.3.10 Outlook | Yes | The Sydney DCP 2012 requires that views and outlooks from existing residential development should be considered in the site planning and massing of new development.<br><br>The impacts on views from neighbouring residential development is discussed further under the discussion heading below.<br><br>The impacts to outlook of neighbouring properties across the opposite side of Orwell Street is acceptable, given the separation across the width of the street. |

| Provision | Compliance | Comment |
|---|---|---|
| | | The impacts to outlook of neighbouring properties to the rear of the site, including the dwellings and communal rooftop terrace of the residential flat building at 25 Hughes Street is acceptable noting that the existing outlook towards the subject site is the blank wall of the fly tower. |
| 4.2.3.11 Acoustic privacy | Yes | The Sydney DCP 2012 requires that a Noise Impact Assessment is provided for uses which may affect the acoustic privacy of adjacent residential uses.<br><br>A Noise Impact Assessment has been provided which has been reviewed by Council's Acoustic Specialist.<br><br>The submitted information has demonstrated that the proposal is able to satisfy the relevant acoustic criteria based on the capacity and hours of operation proposed. |
| 4.2.4 Fine grain, architectural diversity and articulation | Yes | The Sydney DCP 2012 requires that each building facade is to be articulated into smaller elements at a scale or grain that reflects the use of the building and the various components of the building, the location, and the details and building elements including building entries, ground floor, lower floors, top floor and roof.<br><br>The design of the development reflects the various uses of the building including the entertainment venue within the existing auditorium and hotel uses within the new additions.<br><br>The existing details and building elements at building entries, and ground floor remain. The existing roof of the building which is not currently visible from surrounding streets at pedestrian level is to be removed as part of the proposal. |

| Provision | Compliance | Comment |
|---|---|---|
| 4.2.6 Waste and recycling Management | Yes | A condition is included in Attachment A to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development. |
| 4.2.9 Non-residential development in the MUI Mixed Uses Zone | Partial compliance | The site is in the MU1 Mixed Use zone, (former the B4) zone. Non-residential development on sites within proximity to residential uses must consider a number of matters in relation to the potential impacts on the amenity of existing residential uses.<br><br>Refer to the further details and assessment provided in the 'Discussion' section below with regard to noise impacts and operating hours.<br><br>With regard to privacy and overlooking, the windows of the proposed addition are 18.8 metres from the nearest residential flat building at 113-115 Macleay Street, known as Gowrie Gate. This is sufficient separation to ensure visual privacy.<br><br>At the rear, the residential flat building at 25 Hughes Street has windows within its rear wall, however they currently look towards the existing rear wall of the site, and the proposal will not result in new windows at lower levels adjacent to 25 Hughes Street or additional privacy impacts. There are proposed north facing windows to Level 5 and 6 of the fly tower, however these windows are elevated above the communal roof terrace of 25 Hughes Street, and have fixed screening, and will not result in unreasonable privacy impacts.<br><br>With regard to the generation of vehicular and pedestrian traffic as a result of the development, the proposal has been reviewed by the City's Access and Transport Unit and Traffic Operations Unit. |

| Provision | Compliance | Comment |
|---|---|---|
| | | The site is located in close proximity to public transport infrastructure, including bus stops on Macleay Street and Kings Cross train station.<br><br>The application proposes to change the existing 'no stopping' area to a 'no parking' area to allow for a pick-up and set down zone on Orwell Street outside the main entrance of the site.<br><br>This is not supported by Council's Traffic Operations Unit as it is within the statutory 10 metres of 'no stopping' required adjacent to the intersection with Orwell Lane. Council's Traffic Operations Unit have also advised that there are a number of other potential changes to parking restrictions to allow for a pick-up and drop off zone within either Orwell Street or Orwell Lane. This would be done post the granting of any development consent if supported and after consideration by the City's Local Pedestrian, Cycling and Traffic Calming Committee (LPCTCC).<br><br>There is an existing 'no parking' zone outside part of the site's Orwell Street frontage. This is legally allowed to be used as a pick up and drop off zone, however, it would block the carriageway if used in this manner. Changing this to a 'no stopping' zone would resolve this issue.<br><br>To improve pedestrian safety, a condition is included in Attachment A that requires a continuous footpath treatment be provided across Orwell Lane as part of the public domain works. The continuous footpath treatment will provide a raised section of the roadway that is level with footpath so that pedestrians have priority over vehicles.<br><br>With regard to vibration, the proposed uses are not likely to result in vibration impacts to neighbouring properties, subject to conditions included in Attachment A. |

| Provision | Compliance | Comment |
|---|---|---|
| | | As discussed elsewhere in this assessment report, a condition is included in Attachment A requiring that specular reflectivity not exceed 20%.<br><br>With regard to overshadowing, as discussed elsewhere in this assessment report, the proposal will not result in significantly adverse overshadowing impacts to neighbouring and nearby residential properties. |

**4.4 Other Development Types and Uses**

**4.4.8 Visitor accommodation**

| Provision | Compliance | Comment |
|---|---|---|
| 4.4.8.1 General | Yes | The proposed hotel is self-contained with no common access ways with adjoining properties.<br><br>A site manager must be on site when guests have access to the premises. A condition is included in Attachment A that a site manager be on site 24 hours per day.<br><br>Sleeping rooms do not include triple-tier bunks or cooking facilities. All toilet and shower facilities are located within each hotel room.<br><br>A Plan of Management and Acoustic Impact Assessment have been submitted with the application.<br><br>The Plan of Management addresses the requirements of the Sydney DCP 2012 in relation to visitor accommodation, and a condition is included in Attachment A that requires compliance with the Plan of Management. |
| 4.4.8.3 Additional provisions for hotels, private hotels and motels | Yes | The Sydney DCP 2012 requires that each room be 5.5 square metre per person for guests staying longer than 28 days, being 11 square metres for double rooms. All hotel rooms satisfy the minimum size requirements. |

| Provision | Compliance | Comment |
|---|---|---|
| | | The Sydney DCP 2012 permits a maximum length of stay of 3 months. A condition is included in Attachment A to ensure the maximum length of stay is 3 months.<br><br>Appropriate storage facilities for baggage and travel items are provided within each room. |

## Discussion

### Estimated Cost of Development and Delegations

76. Development the estimated cost of which exceeds $50 million is defined as "major development" for the purposes of the City of Sydney Act 1988. Major development is referred to the Central Sydney Planning Committee for determination.

77. When the development application was lodged in 2021, a Registered Quantity Surveyor's Detailed Cost Report was submitted with an estimated cost of development of $30,250,941. The report was prepared and signed by a Registered Quantity Surveyor.

78. The Planning Circular (Calculating the genuine estimated cost of development) states "The consent authority must accept the estimate of cost submitted with the DA unless it is satisfied that the estimate is neither genuine nor accurate." Therefore, the estimated cost of development was accepted by the City.

79. The development application was subsequently reported to Local Planning Panel, as the estimated cost of development was less than $50 million. The Panel deferred a decision on the development application, as discussed further under the Local Planning Panel resolution' heading below.

80. Amended plans and an amended Registered Quantity Surveyor's Detailed Cost Report and Elemental Estimate with an estimated cost of development of $69,107,997 was submitted on 29 August 2023. The applicant submits that the estimated cost of development has been impacted by the following factors (additional to the recent period of elevated construction cost rises):

    (a) The heritage constraints that have been imposed, by Heritage Council and City of Sydney, have had significant impact on the demolition, temporary works, bulk excavation, underpinning, contingency, preliminaries, and margin.

    (b) Hotel operator engagement – luxury hotel brand versus a mid-scale.

    (c) Entertainment operator engagement – customised production with state of the art sound and light with multiple stages and full fit out. Previously assumed as an open venue for hire.

81. The City engaged an independent Quantity Surveyor to carry out a peer review of the Registered Quantity Surveyor's Detailed Cost Report and Elemental Estimate, and they agree with the revised estimated cost of development. Therefore, the development application is now referred to the Central Sydney Planning Committee as the estimated cost of development exceeds $50 million.

**Local Planning Panel resolution**

82. The development application was previously reported to the Local Planning Panel, as the estimated cost of development, as originally submitted, was less than $50 million.

83. The development application was reported to the Local Planning Panel on 19 July 2023 with a recommendation for deferred commencement approval. The Panel deferred consideration of the development application to enable the applicant to submit additional information and amended plans to address several concerns raised by the Panel. The Resolution of the Local Planning Panel is provided in Attachment H.

84. The applicant has submitted amended plans and additional information in response to the Panels comments. The applicant's response is provided in Attachment I and is summarised in the table below.

| Local Planning Panel resolution | Response |
|---|---|
| Concerns regarding the inadequate clause 4.6 variation request – height of buildings and/or the potential to minimise the view impacts by reducing the height of part of the proposed development above the fly tower. | The applicant has submitted an updated Clause 4.6 request for an exception to the height of buildings development standard (Attachment C).<br><br>In particular, the Clause 4.6 request has been updated to provide a more detailed analysis on the environmental planning grounds to justify contravening the development standard, including visual impacts, overshadowing impacts, visual privacy, noise, and view impacts.<br><br>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 Clause 4.6 of the Sydney LEP 2012. The assessment of the amended Clause 4.6 request is outlined below.<br><br>The applicant has also submitted drawings showing a compliant scheme within the 22m height plane (Attachment I). |
| The question of reversibility is also required to be more effectively addressed. | The applicant has submitted additional information in the form of section drawings showing the steps that could be taken to reverse the proposed works (Attachment I). |

| Local Planning Panel resolution | Response |
|---|---|
| | The applicant submits that the proposal was considered by Heritage NSW who granted General Terms of Approval, and that the proposal re-instates the original theatre by removing the intrusive office additions which is considered a significant contribution to reversing the building to its most historically significant use. |
| The privacy and amenity of residents to the north requires more consideration with suitable design amendments, as well as further design resolution in separating the cabaret area from the hotel use. | *Privacy and amenity of residents to the north*<br><br>The privacy concern relates to the communal roof terrace of the residential flat building at 25 Hughes Street.<br><br>The applicant has submitted amended plans which have added vertical window shrouds to hotel rooms 4.06, 4.07, 4.08 and 4.09 on Level 4 and 5.06, 5.07, 5.08 and 5.09 on Level 5 to provide additional privacy to neighbours to the north.<br><br>The applicant has also provided drawings showing views from north facing windows to rooms 5.01, 5.06, 5.07, 5.07, 5.08, 5.09 and 6.01 (Attachment I) in relation to the proposed screening and shrouds.<br><br>These drawings indicate that screening to room 5.01 would project over the boundary, and therefore a condition is recommended that the screening to room 5.01 is to be re-designed to ensure that it is located wholly within the boundary of the subject site whilst maintaining visual privacy of the communal roof terrace of 25 Hughes Street.<br><br>*Separating the entertainment facility (cabaret area) from the hotel use*<br><br>The applicant has submitted amended plans which have reconfigured internal lift circulation and provision of a separate hotel reception. The amendments have provided a lobby adjacent the lift on Level 2 to allow for separate entries to the entertainment venue and the corridor to hotel rooms at this level. The amendments have also provided a door connecting ground floor hotel room G.01 with the green room, to allow this room to be used by a VIP performer. |

| Local Planning Panel resolution | Response |
|---|---|
| | The applicant has submitted an Operational Plan (Attachment I) which includes floor plans which have indicated which parts of the building are for the exclusive use of either the entertainment facility or hotel, and the shared spaces. |
| The issues of hotel room amenity, hotel and venue circulation, the lack of hotel back-of-house facilities and the inadequacy of theatre back-of-house needs to be resolved. | *Hotel room amenity*<br><br>The hotel rooms are compliant with the provisions of the Sydney DCP 2012 and will comply with the National Construction Code (NCC) requirements subject to a design modification condition included in Attachment A to require that the size of the lightwell void is increased to a depth of 1.92 metres.<br><br>It is noted that the application originally proposed new openings within the fly tower walls to provide additional light, however these openings were not supported as they were located directly on the property boundary.<br><br>The applicant has advised that the hotel room size, layout, and design are a result of comprehensive input from the global hotel operator, which has significant experience in the adaptive reuse of heritage buildings to deliver high quality hotels.<br><br>The applicant has proposed that a large artist mural be provided to the fly tower wall to improve the amenity and provide visual interest. A condition is recommended that required further details of the mural to be submitted.<br><br>*Hotel and venue circulation*<br><br>The applicant has submitted amended plans which have reconfigured internal lift circulation and provision of a separate hotel reception. The amendments have provided a lobby adjacent the lift on Level 2 to allow for separate entries to the entertainment venue and the corridor to hotel rooms at this level. |

| Local Planning Panel resolution | Response |
|---|---|
| | *Hotel and entertainment facility back-of-house facilities*<br><br>The applicant has advised that they have engaged an international hotel operator and separately engaged and entertainment operator to operate the venue, which provides contemporary Parisian cabaret, offering a blended experience of dining, immersive music shows and live entertainment.<br><br>The applicant advises that the design of the back of house area has been considered in great detail and continually refined by the future entertainment venue operator and hotel operator.<br><br>The applicant has submitted a table within the Operations Plan (Attachment I) which details the requested back of house facilities from both the entertainment facility and hotel operator. |
| The operational constraints imposed on the venue due to the number of hotel rooms and the potential conflicts between discrete uses also require further consideration | The applicant has submitted an Operational Plan (Attachment I) which includes floor plans which have indicated which parts of the building are for the exclusive use of either the entertainment facility or hotel, and the shared spaces.<br><br>The applicant submits that the entertainment offered is contemporary in nature and does not require stage sets. |

**Reinstatement of former Theatre use**

85. A number of submissions request that the site be returned to its former use which was predominantly as a theatre or picture theatre. A traditional theatre is not proposed as part of the development application, however the proposal will return an entertainment use to part of the building for the first time in 44 years.

86. It is noted that the building was originally designed as a theatre, and operated generally as a theatre between 1939 and 1950, as a cinema between 1950 to 1979 and had reverted back to a theatre between 1966 and 1971. It was then a food hall, studio and offices. It has not been used for a theatre, cinema or entertainment use since 1979.

87. A Minerva Theatre Feasibility Study was commissioned by Create NSW in 2020 to investigate whether a refurbished Minerva Theatre would be a viable performance space in the Sydney market. This concluded that reinstatement of the Minerva as a commercially operated theatre is a viable proposition. The report indicated that the building was capable of being converted to a 1,000 seat theatre at a cost of approximately $43 million including assumed purchase price.

88. The applicant provided a Feasibility Study Review which concluded that it was not technically feasible to revert the building into a 1,000 seat theatre, as it was not possible to fit 1,000 seats into the envelope of the auditorium in a code compliant way, or that will provide a positive audience experience. The Feasibility Study Review advised that the building could reasonably accommodate a 650 seat theatre, and that it would be possible to achieve a maximum of 806 seats within the l of the auditorium envelope, which would need to be further reduced to address compliance issues.

89. In their submission to the application, Create NSW advise that they do not agree with the assertion that restoration for a 1,000 seat theatre is not possible, and that a 1,000 seat theatre is a workable and realistic option.

90. A theatre is not proposed as part of the development application, however an entertainment use is proposed within the main auditorium. The development application is to be assessed against the relevant planning controls based upon the information submitted with the application.

91. The applicant has described the use of the proposed entertainment facility as *"a nocturnal adventure offering a high end and experimental dining concept, consisting of immersive music shows and participative entertainment."* The use is defined under the Sydney Local Environmental Plan 2012 as an 'entertainment facility'. The Plan of Management also outlines that the premises will be available for hire by local performance groups, businesses and for events on Mondays and Tuesdays when the principal entertainment use is not operating. The proposal will return an entertainment use to the site for the first time in 44 years.

92. The proposed land uses are permissible within the MU1 zone and are consistent with the zone objectives. The site is privately owned, and the proposed use must be assessed against the planning controls that apply. In this instance the proposed use as an entertainment facility is acceptable. Under the EP&A Act council assessment staff or the determining authority is not able to increase the number of seats or change the use of the building to be a larger multipurpose theatre.

**Heritage**

93. The building was constructed in 1939. The site is a local heritage item, located in a heritage conservation area, and is listed on the State Heritage Register. As such, the proposal is subject to heritage controls under the Heritage Act, 1977, Sydney LEP 2012 and Sydney DCP 2012.

94. The former theatre building is in a modified condition due to interventions carried out in the 1980s, including raked floors and seating removed and floor levels inserted within the auditorium space.

95. Key features of the building include the Expressionist ceiling and proscenium arch, and the entry foyer with double height space, the vaulted, fluted ceiling, and the grand staircase with decorative steel balustrade. The timber catwalks, volume within the fly tower and original roof structure remain.




**Figure 42**: The Sydney LEP 2012 Heritage Map (with the subject site outlined in blue)

96. As the site is listed on the Stage Heritage Register, the application was referred to Heritage New South Wales to carry out an assessment. The key items of the Heritage New South Wales assessment are:

    (a) The application was referred to the archaeologists at Heritage New South Wales who requested further information, including archaeological test excavations.

    (b) The application was referred to Heritage New South Wales' Technical Advisory Panel three times, and additional and amended information was provided in relation to a number of matters.

    (c) Following receipt of additional information that had been requested, the application was referred to the Approvals Committee at their meeting of 6 September 2022. Following the receipt of additional information requested by the Approvals Committee, General Terms of Approval were granted on 27 September 2022.

    (d) The amended application was referred back to Heritage New South Wales on 9 March 2023. General Terms of Approval to the amended application were granted on 30 May 2023.

(e) The amended application that responded to the Local Planning Panel resolution was referred back to Heritage New South Wales on 29 August 2023. General Terms of Approval to the amended application were granted on 16 October 2023 (Attachment D).

97. It is noted that the proposal will require a Section 60 application to be approved by Heritage New South Wales after the granting of development consent, but prior to work commencing. A number of items to be addressed with the Section 60 application have been specified within the General Terms of Approval, as follows:

**DETAILS TO BE SUBMITTED FOR APPROVAL**

1. The following information is to be submitted with the s60 application for approval by the Heritage Council of NSW (or delegate):
   a. Revised construction methodology drawings and structural sequencing reflecting the updated proposal.
   b. Structural adequacy report of the upper stalls/balcony and their ability to withstand additional load.
   c. Detailed drawings providing further details on the facilities required to operate the entertainment venue including lighting, green rooms, backstage storage, sound, etc., to maintain as much of the original heritage fabric and form as possible.
   d. Detailed drawings that consider compliance with building standards, safety and access.
   e. Minimise the number of openings to reduce impact on eastern and western elevations. The openings should be articulated to be sympathetic to the style of the existing Interwar heritage facades.
   f. Detailed inventory, condition and significance assessment of all existing fabric and a detailed schedule of conservation works.
   g. Provide an inventory of significant fabric being salvaged for reuse within the building or used as part of interpretation.
   h. An inventory of moveable heritage items associated to the significant historical occupancy of the building be recorded. The inventory should identify items, their storage (short and long term) and their eventual relocation within the site.

98. As approval has been granted by Heritage New South Wales, the consent authority must not refuse development consent on heritage grounds. This is because Clause 4.48 of the Environmental Planning and Assessment Act, 1979 states that:

> (1) This section applies to the determination by a consent authority of a development application for development that is integrated development for which a heritage approval is required.
>
> (2) A consent authority must not refuse development consent on heritage grounds if the same development is the subject of a heritage approval.

99. A local Heritage Committee was invited to consider the application in accordance with Section 3.9.4 of the Sydney DCP 2012, which requires that:

> (1) This provision applies to development that will introduce major changes to a heritage item identified in Schedule 5 of the Sydney LEP 2012 as being of State heritage significance or to a site containing more than one heritage item, if the development involves:
>
> (a) demolition that will result in a reduction of the building envelope of the heritage item by more than 35%;
>
> (b) an increase in the size of the building envelope of the heritage item by more than 20%; or
>
> (c) building over more than 20% of a heritage item's building footprint within the airspace above the item, but not within the airspace next to the item.
>
> (2) When considering an application for development to which this provision applies, the consent authority is to:
>
> (a) appoint a committee that includes heritage professionals to examine and advise on the merits of the proposal;
>
> (b) be satisfied that that committee has followed an appropriate public process for the purpose of that examination; and
>
> (c) consider the advice of the committee but is not bound by the advice of the committee.

100. The Committee was made of 3 members with heritage and structural expertise, being:

(a) Scott Robertson, Robertson & Hindmarsh Pty Ltd, Architects

(b) Otto Cserhalmi, OCP Architects

(c) Nicholas Joannides, Partridge, Engineers

101. The Committee provided a report on 1 July 2022 (Attachment E). The Committee did not support the proposal, and provided a number of recommendations, which are outlined in the table below.

102. The conclusion of the local heritage committee to the design at that stage was:

(a) NSW Heritage Management principles and the Burra Charter require that adaptation of a heritage place be informed by, and tested against, a thorough understanding of the significance of the place. A vigorous analysis of options to determine best outcomes for its continuing use should be undertaken, with the least amount of change to its original fabric and use being the preferred outcome. Any proposal for alterations or additions to the theatre should demonstrate that there will not be an unacceptable level of heritage impact on the building as a whole; and the proposed work should be reversible in future.

(b) The current proposal is considered to alter the building from its original use to an extent that is deemed unacceptable. The proposal neglects to conserve the heritage significance of the place in terms of its aesthetic significance, as well as its significance in terms of function. Considerable fabric of High and Exceptional significance is removed under the proposal. The Exceptionally significant Auditorium ceiling, in particular is under threat. Moreover, the use of the building as a hotel will forever prevent the return of the original use of the building, due to the loss of the original functional spaces that enabled the theatre to operate.

(c) Hence, the Committee has concluded that the current proposal as submitted (D/2021/893) and as revised (drawings B2, B1 and Ground plan, dated 10 June 2022 and revised SHI dated June 2022 Rev 2), cannot be supported from a heritage perspective.

103. It is noted that the local Heritage Committee's report was provided to Heritage NSW for consideration in their assessment under the Heritage Act, 1977. As discussed above, Heritage New South Wales, as delegate of Heritage Council of New South Wales considered the report and have provided General Terms of Approval for the proposed development. In accordance with Clause 4.48 of the Environmental Planning and Assessment Act, 1979, the application cannot be refused on heritage grounds.

104. An assessment against the recommendations of the Heritage Committee is provided in the table below.

| Local Heritage Committee Advice | Response |
|---|---|
| The building should be used for a function that reinforces the significance of the building and that does not require non-reversible alterations to the building fabric and spaces to accommodate the proposed new function. The original and revised proposals submitted for this application, fall short of adequately fulfilling this requirement. | The proposed works have been assessed by Heritage New South Wales who have granted General Terms of Approval. |
| The Conservation Management Plan (CMP) should be prepared for the site as required for State-listed items. The CMP submitted with the development application was prepared before the State-listing of the place and was prepared for a different proposal. The new CMP is to be submitted to the City Council for assessment and acceptance. | A Conservation Management Plan (CMP) was prepared for the site by Tanner Kibble Denton Architects in 2020.<br><br>A Heritage Assessment was also prepared by Urbis in relation to the recommendation for the site to be listed on the State Heritage Register.<br><br>A Heritage Impact Statement (HIS) was submitted with the development application, and it used the higher grading of fabric where those gradings differed between the CMP and Urbis Heritage Assessment.<br><br>Heritage New South Wales have not raised any issues with the CMP and HIS. |

| Local Heritage Committee Advice | Response |
|---|---|
| | The building has not changed since the CMP was prepared, and sufficient information in relation to the building fabric has been provided to enable a thorough heritage assessment, and the CMP is acceptable on this basis. |
| A conservation repairs list should be prepared and form part of the documentation. | A condition is included in Attachment A requiring a schedule of conservation works to be submitted prior to the issue of a Construction Certificate, and for these works to be undertaken concurrently with the development works. |
| Archival recording through drawings and photography should be carried out. | Conditions are included in Attachment A that require an archival recording of the building, including drawings and photographs. |
| Prepare a detailed document that thoroughly examines the alternatives for re-use of the building that maximise the retention of fabric and that maintain the significance of the building. | Section 6.2 of the Heritage Impact Statement outlines the design options considered prior to the development application being lodged. A thorough assessment has been carried out of the development application proposal as submitted. The amended proposal has been assessed as acceptable by Heritage NSW who have granted General Terms of Approval. |
| Provide a costed maintenance strategy document that projects maintenance requirements 5, 10, 15 and 20 years into the future. This document is to be prepared by a suitably qualified heritage specialist with experience in restoration and conservation works, such as a Heritage Architect, Quantity Surveyor and Structural Engineer with experience in heritage restorations and costings. | A condition is included in Attachment A that requires a costed heritage asset maintenance plan to be prepared that will be a guide for effective, continuous, protective maintenance of all significant heritage fabric for a minimum period of 20 years. |
| Continue to maintain the building and repair the building to prevent the current ingress of water that is damaging significant fabric. | The applicant has advised that they have continued to maintain the building in order to prevent the ingress of water. |

| Local Heritage Committee Advice | Response |
|---|---|
| Structural Engineer with heritage experience to provide Dilapidation Surveys with photography of archival quality; for both the Subject Site and all neighbours within two buildings sites of the Subject Site. | A condition is included in Attachment A to require dilapidation reports to be prepared for the subject site and relevant neighbouring properties. |
| Submit a Construction Methodology Report that includes methodology for both demolition and construction for the Subject Site. Report is to provide evidence that satisfactorily instructs how to support and maintain retained structure in a detailed and systematic form. | The applicant has submitted information relating to structural methodology and construction sequencing.<br><br>A deferred commencement condition is included in Attachment A to ensure that the final construction methodology is submitted and approved prior to the consent commencing. |
| During the demolition and construction phases, the interior of the Subject Site is to be monitored by both vibration and survey mark monitoring; and all neighbours within two building sites of the Subject Site. | A condition is included in Attachment A to require vibration monitoring during the demolition and construction phases. |

105. Council's Heritage Specialist raised a number of concerns, including the following matters:

(a) The proposed irreversible demolition of significant fabric, new floor additions and introducing a hotel use are contrary to the articles of the Burra Charter

(b) Almost all of the understanding of the original layout, planning and workings of the original theatre is diminished

(c) The timber catwalk, volume within the fly tower and original roof structure survived the 1980s interventions only to be lost under the application

(d) The proposal results in a significant physical and cumulative impact on the integrity and intactness of the building

(e) The building will never be able to revert to a theatre again

(f) The visibility of the proposed additions is not minimised and will change the silhouette of the building

(g) The structural solution required to support these additions are excessive and intrusive and does not guarantee risk free environment and certainty of the retention of significant fabric including the ceiling

106. An Auditorium Methodology Report was submitted to outline how the works can be carried out whilst preserving the existing building fabric. This includes the installation of a temporary birdcage scaffolding to enable access to the ceiling and temporary support prior to loads being transferred to the new Level 4 structure.

107. The report outlines that some small penetrations (around 60) will be required through the ceiling to enable these scaffold legs. The ceiling material is proposed to be retained and labelled for later reinstatement. Sprinklers are proposed to be installed in the ceiling.

108. Council's Heritage Specialist also acknowledges that the application cannot be refused on heritage grounds as General Terms of Approval have been granted by Heritage NSW. A number of conditions are included in Attachment A to ensure that the impacts to the heritage significance of the building are minimised, including:

    (a) A deferred commencement requiring the submission of the final structural solution

    (b) The number of penetrations to the ceiling are to be minimised. Details of the size and number of holes to the ceiling are to be submitted. Details of the method of repair work to the ceiling are to be submitted

    (c) Details of fire sprinklers to the ceiling are to be submitted, and that there be no further attachments

    (d) Details of the grand staircase and handrail upgrade are to be submitted

    (e) Details of the support and protection systems to dress circle boxes and moulding

    (f) Details of methods of protection of openings for fire separation (such as screening) are to be submitted

    (g) Details of water proofing of the exposed fly tower walls and connection of new structure to the flyertower walls are to be submitted

109. In summary, given the heritage significance of the building and the controls and objectives of the Sydney LEP 2012 and Sydney DCP 2012, a high quality of heritage conservation is required.

110. This requires more resolution in detail and appropriate consent conditions are included in Attachment A. These conditions will ensure that the proposed additions to the building, and the structural and services interventions necessary to support them, can be constructed while maintaining the heritage significance of the place. It is noted that in imposing these conditions, they do not defer consideration of an essential element of the proposal.

**Deferred commencement condition for final structural drawings**

111. The recommendation is for a deferred commencement consent, subject to the deferred commencement condition (1) Final Structural Drawings. The matters identified in the deferred commencement condition must be submitted to Council within 24 months of the date of determination. The consent will not operate until such time that the Council notifies the applicant in writing that the deferred commencement consent condition has been satisfied.

112. The condition requires the submission of additional information including the final structural and services design, and coordination between the structural drawings, services and architectural drawings. The condition does not require specific changes to the design of the proposal.

113. The applicant has requested that the condition be re-worded to allow a number of 'early works' to occur prior to submitting information to satisfy the condition, being:

    (a) soft strip out including removal of furniture, fixtures, fittings, services and finishes, HAZMAT and preliminaries.

    (b) Certain minor demolition and excavation works relating to archaeology (removal of Orwell House), demolition of ground level slab and L1 floor slab, temporary structural works, dismantling of heritage balustrade.

114. A full and final set of structural drawings, services drawings coordinated with the architectural drawings has not been submitted, and most of the information submitted with the development application has been conceptual and indicative only as to the structural design. The applicant advised that the construction methodology will be further refined upon appointment of a contractor.

115. The deferred commencement condition requires information to be provided to ensure that the design of the proposal does not change as a result of final detailed structural drawings. It is acceptable that this information be provided prior to the consent becoming operative, however it is not appropriate that this information be delayed to prior to the issue of a construction certificate or after 'early works' have been carried out as it is imperative that the full and final scope of works has been documented prior to the consent becoming operative.

116. The deferred commencement condition also ensures that the final structural drawings be submitted to ensure that the design qualities of the proposal that exhibits design excellence under Clause 6.21C of the Sydney Local Environmental Plan 2012 will be retained.

117. The condition satisfies the requirements of the Newbury Principles, as it is for a planning purpose, fairly and reasonably relates to the development, and is reasonable having regard to the scope of development.

**Design Advisory Panel and Design Excellence**

118. The proposal was referred to the City's Design Advisory Panel (DAP) on 23 March 2023. The panel noted their support for the adaptive reuse of this building.

119. The recommendations of the Panel are outlined in the table below.

| Design Advisory Panel Recommendations | Response |
|---|---|
| The Panel noted that the building is State heritage listed and elements of exceptional significance include the ceiling, foyer and bathrooms. | This comment is noted. |

| Design Advisory Panel Recommendations | Response |
|---|---|
| The Panel supports adaptive reuse of this building. | This comment is noted. |
| There is concern that the structural work to excavate the basement may impact exceptional heritage fabric and materials. If there is damage the significance is lost.<br><br>The Panel noted that the Heritage Council's Technical Advisory Panel has reviewed the structural assessment and is satisfied. | Heritage NSW's Technical Advisory Panel has reviewed the application prior to Heritage NSW issuing the General Terms of Approval.<br><br>The Heritage Committee appointed to review the application including a structural engineer, and the heritage committee did not make any specific recommendations in relation to reducing the size of the basement.<br><br>It is noted that, prior to being reviewed by DAP, that the proposal was amended to reduce the number of basement levels from 4 to 2 as well as reducing the basement footprint. |
| The poor amenity of the hotel design is a significant concern. Access and circulation are not clearly legible. The light shaft lacks generosity and will collect water and leaf litter. There is a high reliance on artificial lighting. Servicing and ventilation is too tight. | Access and circulation:<br><br>The application has been amended to provide a separate hotel reception located at ground floor level, adjacent to Lift 2 that provides direct access to hotel rooms located on Levels 2 to 4. The orientation of Lift 2 was amended to allow a lobby to be provided at Level 2 that allows for separate entries to the entertainment venue and corridors serving the hotel rooms on that lave. Lift 1 is located at the end of the ground floor rear corridor and provides access to hotel rooms located within the fly tower and Level 5. A condition is recommended that wayfinding signage be provided.<br><br>Natural light:<br><br>There are 28 hotel rooms that rely on natural light through the light well void of the fly tower which has a depth of 1.56 metres to the internal face of the wall of the fly tower.<br><br>The applicant submitted a window schedule to demonstrate whether each hotel room was able to comply with the requirements of the National Construction Code (NCC).<br><br>This information shows that the hotel rooms on Levels 4 to 6 comply with the deemed to satisfy provisions in relation to natural light. However, the hotel rooms on Level 2 would require a 1.92 metre deep lightwell and rooms |

| Design Advisory Panel Recommendations | Response |
|---|---|
| | on Level 3 would require a 1.71 metre deep lightwell to comply with the deemed to satisfy provisions.<br><br>The applicant submits that a performance solution would be pursued, as the rooms have floor to ceiling glazing that exceeds the minimum glazing size requirements of the NCC.<br><br>While a performance solution could be considered by a certifier, better amenity will be provided by increasing the width of the lightwell.<br><br>A design modification condition is included in Attachment A to require that the size of the lightwell void is increased to a depth of 1.92 metres.<br><br>The smallest hotel room within the fly tower is 23.6 square metres. As the minimum hotel size for a double room is 11 square metres, the design modification does not require a reduction in hotel rooms.<br><br>It is noted that the hotel rooms on Level 1 have skylights only, which are compliant with the deemed to satisfy provisions of the NCC.<br><br>Servicing and ventilation:<br><br>Servicing includes plant rooms located on basement levels 1 and 2, a new substation located adjacent to the Orwell Street frontage, service risers, and rooftop plant. |
| A reduction in the number of hotel rooms is recommended to allow for more generosity, amenity, legibility, and circulation. | As discussed above, a design modification condition is included in Attachment A to ensure that the lightwell is increased in size, however this will result in a reduction in the size of those rooms, rather than a reduction in the total number of rooms.<br><br>The remainder of the proposal remains compliant with the amenity criteria of the Sydney DCP 2012, and issues relating to legibility and circulation can be addressed through appropriate wayfinding signage, which is addressed by a condition included in Attachment A. |

| Design Advisory Panel Recommendations | Response |
|---|---|
| The Panel noted that there are no back of house facilities and the venue will only be able to support performances such as cabaret or solo artists. | The back of house facilities associated with the entertainment facility use consist of a backstage room with two dressing rooms and bathrooms.<br><br>The applicant has advised that this is sufficient for the proposed operating model.<br><br>The application has been amended to allow for a door connecting the green room to the ground floor hotel room G.01 so that this room may be used by VIP performers. |
| The venue has a capacity for up to 450 patrons and the foyer should have enough generosity to accommodate the tidal flow of these crowds. | The application has been amended to reduce the patron capacity of the entertainment facility to 250 patrons, with 110 patrons in the small bar.<br><br>The size of the ground floor and first floor foyer is over 300 square metres.<br><br>The National Construction Code includes deemed to satisfy provisions for a foyer space to accommodate at least 0.25 square metres per person that the auditorium accommodates.<br><br>On this basis the foyer is large enough to serve 1,200 persons.<br><br>The size of the foyer is sufficient for the proposed patron capacity of 250 patrons for the entertainment facility and 110 patrons for the small bar. |
| New facades should meet a sustainability rating. This may require an alternative approach to full glazing with screening. | A Design for Environmental Performance Report was submitted with the development application which sets out the environmental commitments for the development.<br><br>The applicant also provided information with the application indicating self-imposed environmental sustainability initiatives, and a Section J report that has been completed satisfactorily against NCC standards.<br><br>The proposal has been reviewed by the City's Environmental Sustainability Advisor who has advised that there are no sustainability ratings that are mandated for this development type, and that the information submitted in relation to the sustainability of the facade is generally |

| Design Advisory Panel Recommendations | Response |
|---|---|
| | acceptable, except that information relating to thermal bridging has not been provided.<br><br>A condition is included in Attachment A to require that the Design for Environmental Performance Report is updated to incorporate thermal bridging information, to ensure self-imposed initiatives are incorporated. |

120. 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.

**Clause 4.6 Request to Vary a Development Standard - Height**

121. The site is subject to a maximum height of buildings control of 22 metres under Clause 4.3 of the Sydney LEP 2012.

122. The proposed development has a height of 24.92 metres, which represents a 13.27% non-compliance with the height of buildings development standard.

123. Details of the non-compliance with the 22 metre height control is depicted in the figures provided below.

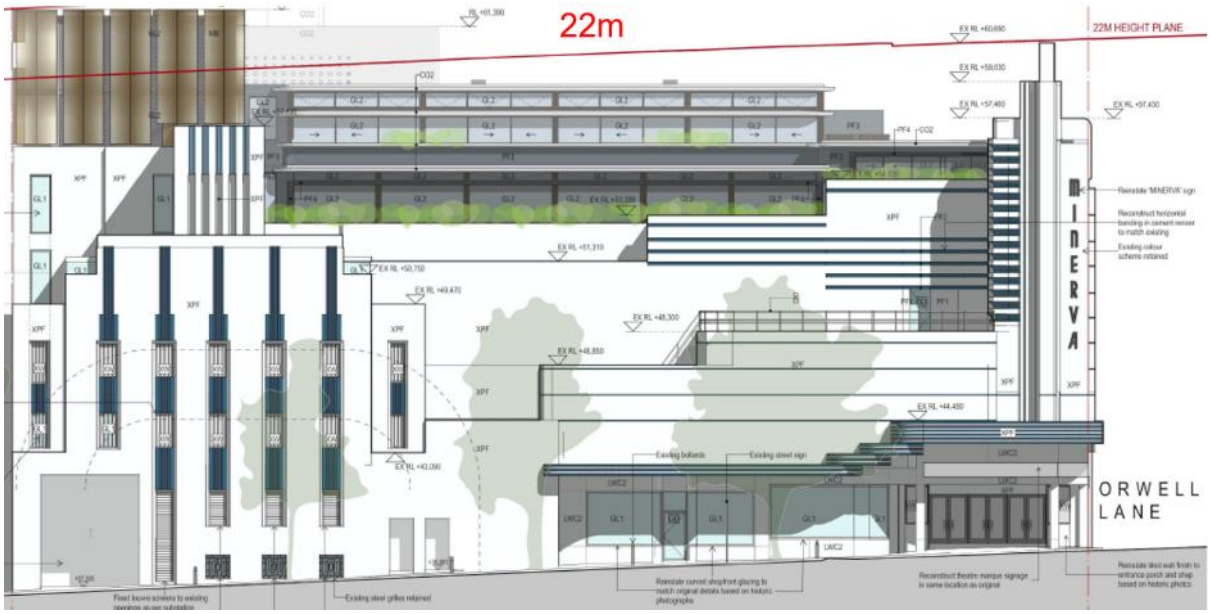


**Figure 43**: The height limit (shown as a red line) as viewed from the Orwell Street elevation




**Figure 44**: The height limit (shown as a red line) as viewed from the northern elevation

124. A written request (Attachment C) 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

    (d) The proposed development will be consistent with the objectives of the standard.

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

125. 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 proposal is consistent with the relevant objectives of the 'Height of Building Standard," being:

            (i) The height of development is appropriate to the condition of the site and its context.
            (ii) Ensures appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas.
            (iii) Promotes the sharing of views.

(ii) The vast majority of the proposed building envelope is below or in line with the 22 metre height limit. As such, the scale of the building remains consistent with the desired character of the locality notwithstanding the proposed minor variation.

(iii) The proposal retains, conserves and adapts the building, respecting its aesthetic significance. The existing streetscape is varied, with a range of scales and architectural styles. The proposed additions have been designed to minimise visual impacts on the streetscape and the local heritage conservation area.

(iv) The proposed variation to the height of buildings control does not give rise to an impact on the amenity of the locality.

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

(i) There are a lack of amenity impacts arising from the proposed height contravention, as well as the environmental planning benefits of allowing the contravention.

(ii) Visual impacts - The concentrated massing of floor space above the existing fly tower wing, and the adjoining plant equipment provides the least overall visual impact across the remaining part of the site when viewed from both the public domain of the main street frontages, Orwell Street and Orwell Lane, and surrounding properties. The impacts of the non-compliant portion of the building height in this location are also less significant given the identifiable height of the existing fly tower wing.

(iii) Overshadowing impacts - The shadow diagrams provided to accompany this application, and subsequent amended plans, clearly identify that the proposed building envelope will only have a very minimal overshadowing impact on a limited number of properties to the south and south-east, as well as the public open space, Springfield Reserve, in mid winter. The latest proposed envelope is also compliant with the solar access controls of SLEP and SDCP 2012. The non-compliant section of the building height above the existing fly tower wing and adjoining plant equipment has only a limited component of the overall overshadowing impact of the amended building envelope, and a compliant building height in this location would provide only a limited amount of additional mid-winter solar access for those most affected properties. The alternative of reallocating higher built forms in the mid and north-east of the site was not supported by Council officers during the DA Process, given its potential to create a greater degree of overshadowing for a greater number of properties and Springfield Reserve to the south.

(iv) Visual privacy - The massing of floor space above the fly tower wing, and the significant setbacks provided from the new hotel additions and their frontages to Orwell Street and Orwell Lane, greatly reduced the potential for overlooking to surrounding residential properties and other buildings. Those parts of the fly tower wing and plant/access structures that exceed the 22 metre height restriction provide very limited opportunity for overlooking of adjoining and surrounding properties (given the metal decorative screening applied to the hotel addition and windowless plant/access structures) and are located well above most adjoining and surrounding residential properties, particularly those properties to the north of the site.

(v) Noise - Those parts of the proposed envelope and plant equipment that exceed the 22 metre height limit are well screened and located well above, and are reasonably separated from most surrounding residential properties, and are therefore unlikely to result in any unreasonable noise generation. The application has been accompanied by both an Acoustics report and Plan of Management to address the requirements of Section 3.15 – Late Night Trading of SDCP 2012 and provide appropriate management procedures to minimise any of the noise and anti-social behaviour impacts of the site's future use.

(vi) View impacts - The very detailed view impact analysis that accompanied both the original application and subsequent plan amendments, have closely examined the potential view loss of those surrounding residential properties with views to the Sydney Harbour Bridge, Sydney Harbour and the Sydney CBD skyline. As with the other main environmental impacts above, the applicant has worked closely with Council staff to produce an overall building envelope and floor space massing which provide the least impact on existing views of surrounding residents, and through various plan amendments made throughout the DA process, the view impact analysis demonstrated that the latest plans will result in only a minimal loss of significant views to a limited number of residential units in the upper levels of the Gowrie Gate building (113-115 Macleay Street) to the south-east. In the recent report on this DA to the Local Planning Panel, the Council officers supported this assessment of the view impacts of the latest building envelope plans and recognised that the design satisfied the view sharing principles and recommended practices of the judgement of the Land and Environment Court matter, Tenacity Consulting v Warringah Council [2004] NSWLEC 140. It is therefore considered that it would be unreasonable to seek any further reduction of that part of the fly tower wing additions and plant/access structures which are non-compliant with the 22 metre SLEP 2012 height restriction, as it is unlikely to provide any further substantive view impact improvement for those four residential units in the Gowrie Gate building identified as the most affected by the current proposal.

(c) The proposed development will be consistent with the objectives of the zone;

(i) The proposed development includes 'hotel and motel accommodation,' 'entertainment facility' and complementary 'food and drink premises' which are permissible with consent within a MU1 – Mixed Use Zone.

(ii) The proposal will see the subject site continue to connect with its rich history through its reinstated function as a performance venue, while also bringing new visitors via the proposed hotel and food and beverage spaces.

(iii) The mix of uses will enhance the distinctive, mixed character of the Potts Point locality.

(iv) The development will have a positive economic impact on the Potts Point area with the potential to attract visitors to the area and to provide employment opportunities.

(v) The site has excellent access to public transport being located in close proximity to the Kings Cross Railway Station to the south, which provides excellent access to the Eastern Suburbs & Illawarra Line. The nearest bus stop is located on Macleay Street which provides frequent public bus services to the CBD and eastern suburbs.

(d) The proposed development will be consistent with the objectives of the standard:

(i) The majority of the proposed building complies with the 22 metre height limit

(ii) The portion of the building that exceeds the height limit does not cause any negative visual or environmental impacts on the public domain, local streetscape, or surrounding residential properties

(iii) In relation to visual impacts, the primary facades of Orwell Street and Orwell Lane are preserved and remain the focal point of the composition. The addition above the fly tower corresponds with the original building's form and will be clearly distinguishable as a secondary element

(iv) In relation to overshadowing impacts, the proposed additions have been designed to ensure that the current level of solar access to surrounding properties is maintained and little significant additional overshadowing of the public domain is caused

(v) In relation to residential amenity impacts, the elements that exceed the height limit are adequately separated from residential development, which eliminates concerns about overlooking or noise disruption

(vi) The proposed addition is appropriately scaled and designed as a secondary component which defer to the architecture of the original building. The addition has been setback from the principal facades and adopts contemporary materials to minimise the visual impact

(vii) The view loss resulting from the amended proposal would be of moderate to minor significance

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

126. 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

    (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) and (b)?

127. The applicant's written request adequately addresses the matters required for demonstration by Clause 4.6(3)(a) and (b) of Sydney LEP 2012.

128. 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.

129. 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).

130. As such, the requirement of clause 4.6(4)(a)(i) of Sydney LEP 2012 is met.

Is the development in the public interest?

131. As per cause 4.6(4)(a)(ii) of the Sydney LEP 2012, the proposed development is in the public interest because it is consistent with the objectives of the height of buildings standard and the objectives of the MU1 Mixed Use zone. That is:

    (a) The height of the development is appropriate to the site conditions. The height, when considered with the proposed building form and setbacks, allows for an appropriate relationship with the heritage item on site, and the surrounding heritage conservation area.

    (b) There are a lack of amenity impacts arising from the proposed height contravention, as well as the environmental planning benefits of allowing the contravention.

    (c) The height of the development does not unreasonably compromise views or outlook.

    (d) The proposed development includes a mix of compatible land uses that are appropriate to the MU1 Mixed Use zone.

    (e) The site is located 270 metres from the Kings Cross railway station and close to multiple bus stops. The location and accessibility and the connection between the public domain and the subject development creates a highly permeable access arrangement which promotes pedestrian movement.

Conclusion

132. 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 Clause 4.6 of the Sydney LEP 2012.

133. The proposed development would be in the public interest because it is consistent with the objectives of height of buildings development standard and the MU1 Mixed Use zone.

**Hours of Operation and Acoustic Impacts**

134. The proposed hours of operation of the various uses are:

    (a) Entertainment facility - 7.00am to 1.00am the following day, Sundays to Thursdays inclusive, and 7.00am to 2.00am the following day Fridays and Saturdays

    (b) Cafe - 7.00am to 12.00am midnight, Mondays to Sundays inclusive

    (c) Small bar - 10.00am to 1.00am the following day, Sundays to Thursdays inclusive, and 10.00am to 2.00am the following day Fridays and Saturdays

135. The proposed patron capacities are:

    (a) Entertainment facility - 250 patrons

    (b) Cafe - 30 patrons indoor, and 18 outdoor

    (c) Small bar - 110 patrons

136. Section 3.15 of the Sydney DCP 2012 sets out controls for late night trading premises and identifies a hierarchy of three late night trading areas located throughout the City. The site is located within a Local Centre area which is the lowest intensity of the three late night trading areas.

137. The Sydney DCP 2012 sets out base and extended trading hours and provides definitions for Category A (High Impact Premises), Category B (Low Impact Premises) and Category C (Retail and Business premises). The entertainment facility is defined as a dedicated performance venue primarily for the purpose of performance, creative or cultural uses.

138. The Sydney DCP 2012 definition states that performance, creative or cultural uses include:

    (a) Live entertainment, being an event at which one or more persons are engaged to play or perform live or pre-recorded music, or a performance at which the performers (or at least some of them) are present in person or

    (b) Display, projection or production of an artwork, craft, design, media, image or immersive technology or

    (c) Rehearsal, teaching or discussion of art, craft, design, literature or performance

139. The proposed entertainment facility is a Category B premises as up to 250 patrons are proposed. The cafe and small bar are defined as Category B premises.

140. The Sydney DCP 2012 sets out matters for consideration when determining appropriate trading hours for late night trading premises. This is determined by taking into account a number of issues, including the location and context of the premises, proximity to residential land uses and other late night trading premises, the likely impact on amenity including noise, and the ability to manage the impacts.

141. A Noise Impact Assessment has been submitted with the application and has been reviewed by Council's Acoustic Specialist. A number of issues were identified with the Noise Impact Assessment and it has been amended a number of times. The latest version of the Noise Impact Assessment has adequately demonstrated that the proposed use is capable of operating within an acceptable noise criteria.

142. The proposed hours of operation of the entertainment facility and small bar do not comply with the base and extended hours for Category B premises in a Local Centre Area.

143. Conditions are included in Attachment A that restrict the capacity of the entertainment facility to 250 patrons and the hours of operation of the entertainment facility to 1am and small bar to midnight. Compliance with the Sydney DCP 2012 and the recommended trading hours are outlined in the table below:

| Proposed use and capacity | DCP Category | DCP Hours | Proposed Hours | Recommendation |
|---|---|---|---|---|
| Entertainment Facility<br><br>250 patrons | Category B | Base: 7am to 11pm<br><br>Extended: 7am to 12am midnight<br><br>Additional hour: 1am | 7am to 1am the following day<br>Sundays to Thursdays inclusive<br><br>7am to 2am the following day<br>Fridays and Saturdays | 7am to 11pm and one year trial period between 11pm and 1am the following day<br><br>Mondays to Sundays inclusive |
| Cafe<br><br>30 patrons | Category B | Base: 7am to 11pm<br><br>Extended: 7am to 12am midnight | 7am to 12am midnight<br><br>Mondays to Sundays inclusive | 7am to 11pm and one year trial period between 11pm and 12am midnight<br><br>Mondays to Sundays inclusive |

| Proposed use and capacity | DCP Category | DCP Hours | Proposed Hours | Recommendation |
|---|---|---|---|---|
| Small Bar<br><br>110 patrons | Category B | Base: 7am to 11pm<br><br>Extended: 7am to 12am midnight | 10am to 1am the following day Sundays to Thursdays inclusive<br><br>10am to 2am the following day Fridays and Saturdays | 10am to 11pm and one year trial period between 11pm and 12am midnight<br><br>Mondays to Sundays inclusive |

**View Sharing**

144. A number of submissions raised concerns with the loss of views towards the skyline of the Sydney Central Business District, Sydney Harbour, the Sydney Opera House, and the Sydney Harbour Bridge.

145. The concerns relate to views from multiple apartments within the residential flat building at 113-115 Macleay Street (Gowrie Gate), and from one apartment and the communal rooftop terrace at the residential flat building at 5 Orwell Street.

146. The location of these properties is shown in the map extract reproduced in the figure provided below.




**Figure 45**: The subject site (shown in blue) and properties with objectors with view loss concerns (shown in red)



**Figure 46**: The neighbouring properties where view assessments were conducted

147. 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".

148. 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".

149. The applicant submitted a view impact assessment report to analyse the view sharing impacts of the proposal. An amended view impact assessment report (reproduced at Attachment G) was submitted with the amended proposal. The amendments included a reduction in the built form at the north-eastern corner of the site to assist in view sharing with 113-115 Macleay Street.

150. 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.

151. A summary of the City's assessment of the impacts to each apartment is summarised in the table below:

| Site | View impact assessment reference | View impact |
|---|---|---|
| 5 Orwell Street | | |
| Unit 1107 | Viewpoint 22-23<br><br>Pages 43-46, 125-130 | No impact, as the proposal is below the views of Sydney Harbour. |
| Communal rooftop terrace | Viewpoint 26<br><br>Pages 47-48, 131-133 | No impact, as the proposal is below the views of Sydney Harbour. |
| 113-115 Macleay Street (Gowrie Gate) | | |
| Unit 602, Level 6 | Viewpoint 28, 29, 31<br><br>Pages 50-55, 140-148 | No impact, as the proposal is below the views of the Sydney Harbour Bridge, Opera House, Sydney Harbour, and the City skyline. |
| Unit 603, Level 6 | Viewpoint 08, 10, 13, 14<br><br>Pages 24-31, 98-109 | No impact, as the proposal is below the views of the Sydney Harbour Bridge, Opera House, Sydney Harbour, and the City skyline. |
| Unit 604, Level 6 | Viewpoint 01, 02, 03<br><br>Pages 14-19, 81-91 | The views of the City skyline are retained.<br><br>The proposal results in a partial loss of view to Sydney Harbour from one viewpoint. This is discussed further below. |
| Unit 503, Level 5 | Viewpoint 34<br><br>Pages 60-61, 155-157 | No impact, as the proposal is below the views of the Sydney Harbour Bridge and Opera House. |
| Unit 504, Level 5 | Viewpoint 32, 33<br><br>Pages 56-59, 149-154 | No impact, as the proposal is below the views of the Sydney Harbour Bridge. |
| Unit 505, Level 5 | Viewpoint 06, 07<br><br>Pages 20-23, 92-97 | There is an existing view of the Sydney Harbour Bridge and Opera House, which are both partially obstructed. |

| Site | View impact assessment reference | View impact |
|---|---|---|
| | | The proposal results in a partial loss of view to the Opera House. This is discussed further below. |
| Unit 506, Level 5 | Viewpoint 18, 19, 20<br><br>Pages 38-43, 119-130 | There is an existing view of part of the City skyline from the bedroom window.<br><br>The proposal results in a partial loss of view to the City skyline. This is discussed further below. |
| Unit 404, Level 4 | Viewpoint 15, 16, 17<br><br>Pages 32-37, 110-118 | There is an existing view of the Sydney Harbour Bridge, which is partially obstructed.<br><br>The proposal results in a partial loss of view to the Sydney Harbour Bridge. This is discussed further below. |

152. 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.

153. 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.)*

154. 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.

155. The City's assessment against the four steps for each property with a view impact is outlined below.

156. Unit 604, Level 6, 113-115 Macleay Street:

(a) Views to be affected: Views of Sydney Harbour. This view is already obscured by other buildings between the subject site and the harbour, and is a partial view not a whole view.

(b) Part of property viewed from: Views are from Viewpoint 03 which is the west facing outdoor deck area over the Llankelly Place frontage.

(c) Extent of impact: A portion of the views to the harbour are obstructed when viewed from the west facing outdoor deck, whilst the views of the harbour are retained when viewed from the outdoor balcony and living room window.

(d) Reasonableness: The views are obstructed by a portion of the proposed plant area, which exceeds the 22 metre height control, and impacts to the view must be assessed with a higher degree of sensitivity. The view is from one viewpoint from Unit 604, and there are better viewpoints of the harbour that remain unobstructed (as shown in the viewpoint from the other balcony below). The view of the harbour from the affected viewpoint is only a glimpse of the harbour, and the proposed development will obstruct around 25% of the view, with a glimpse of the harbour being retained from this viewpoint. In the above context, the view impacts of the proposal are reasonable in this instance.



**Figure 47:** The existing view from the west facing outdoor deck area.



**Figure 48:** The impact on the view of Sydney Harbour from this view point.



**Figure 49:** Viewpoint from the primary outdoor balcony of Unit 604 showing no impact on the views to Sydney Harbour.



**Figure 50:** Another viewpoint from the living room window of Unit 604 showing no impact on the views to Sydney Harbour.

157. Unit 505, Level 5, 113-115 Macleay Street:

(a) Views to be affected: Views of the Opera House. This view is already obscured by other buildings between the subject site and the Opera House, and is a partial view not a whole view

(b) Part of property viewed from: Views are from Viewpoint 06 and 07 which is the north facing living room

(c) Extent of impact: A portion of the views to the Opera House are obstructed when viewed from the north facing living room, whilst the views of the Sydney Harbour Bridge are retained from the same viewpoints

(d) Reasonableness: The proposal was amended to delete a portion of the proposed built form to minimise the impact upon the views from Unit 505. The views are obstructed by the second level of the vertical addition which is compliant with the 22 metre height control. The amount of the Opera House to be obstructed is limited to less than a quarter, with the majority of the existing views to the Opera House, as well as the Sydney Harbour Bridge, being retained from these viewpoints. In the above context, the view impacts of the proposal are reasonable in this instance.



**Figure 51:** The existing view from Unit 505.



**Figure 52:** The impact on the view of the Opera House from this view point.



**Figure 53:** The amended proposal (purple only) and original proposal (purple & green).

158. Unit 506, Level 5, 113-115 Macleay Street:

(a) Views to be affected: Views of the City skyline. This view is already obscured by other buildings between the subject site and the City skyline, as well as being limited to the northern section of the City skyline, and does not include Sydney Tower Eye, and is a partial view not a whole view. The buildings visible are 25 Martin Place (previously known as MLC Centre), Deutsche Bank Place, Chifley Tower, Aurora Place, and Quay Quarter Tower.

(b) Part of property viewed from: Views are from Viewpoint 19 which is the north-west facing bedroom window.

(c) Extent of impact: A portion of the views to the City skyline are obstructed when viewed from the north-west facing bedroom, with the top of the skyline remaining visible.

(d) Reasonableness: The views are obstructed by a portion of the proposed addition to the fly tower, which exceeds the 22 metre height control, and impacts to the view must be assessed with a higher degree of sensitivity. The view is from the bedroom and not the living room. The view of the 25 Martin Place (previously known as MLC Centre) and Deutsche Bank Place are generally retained whilst the tops of the buildings of Chifley Tower, Aurora Place and Quay Quarter Tower are retained. In the above context, the view impacts of the proposal are reasonable in this instance.



**Figure 54:** The existing view from the bedroom window of Unit 506

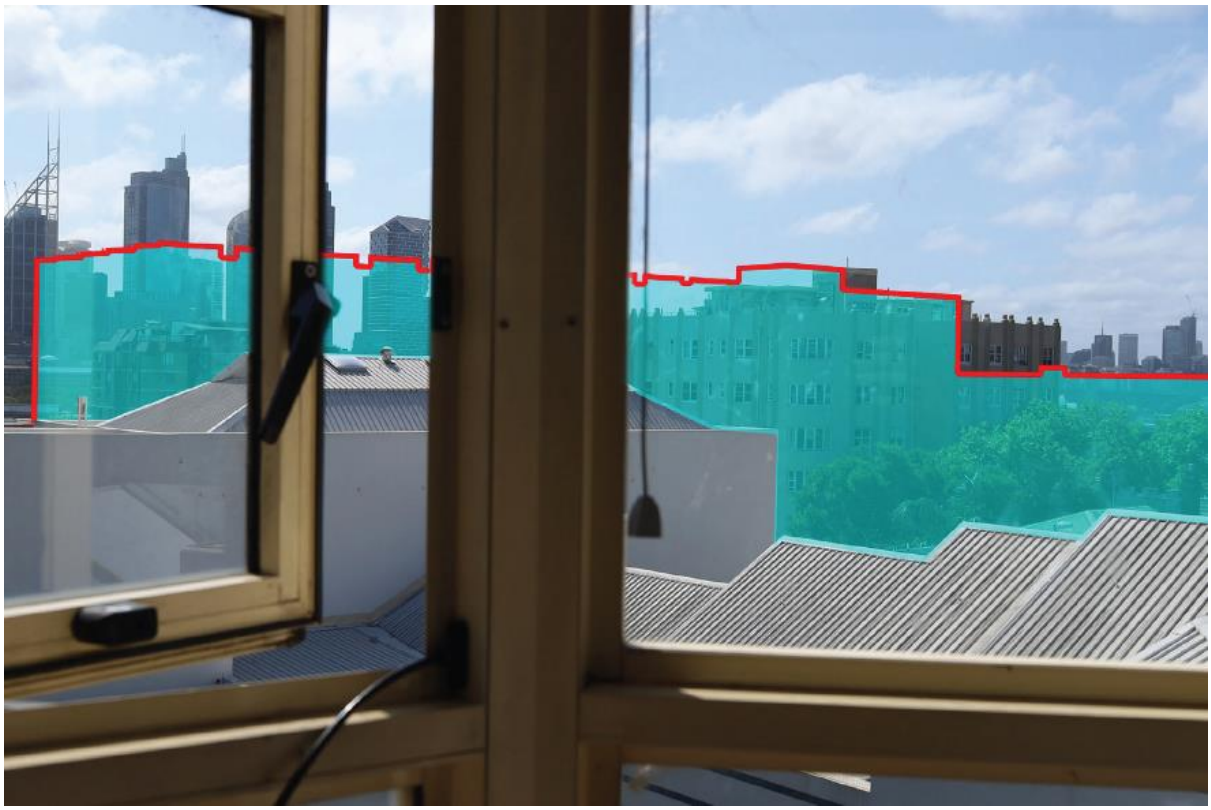

**Figure 55:** The impact on the view of the City skyline from the bedroom window of Unit 506

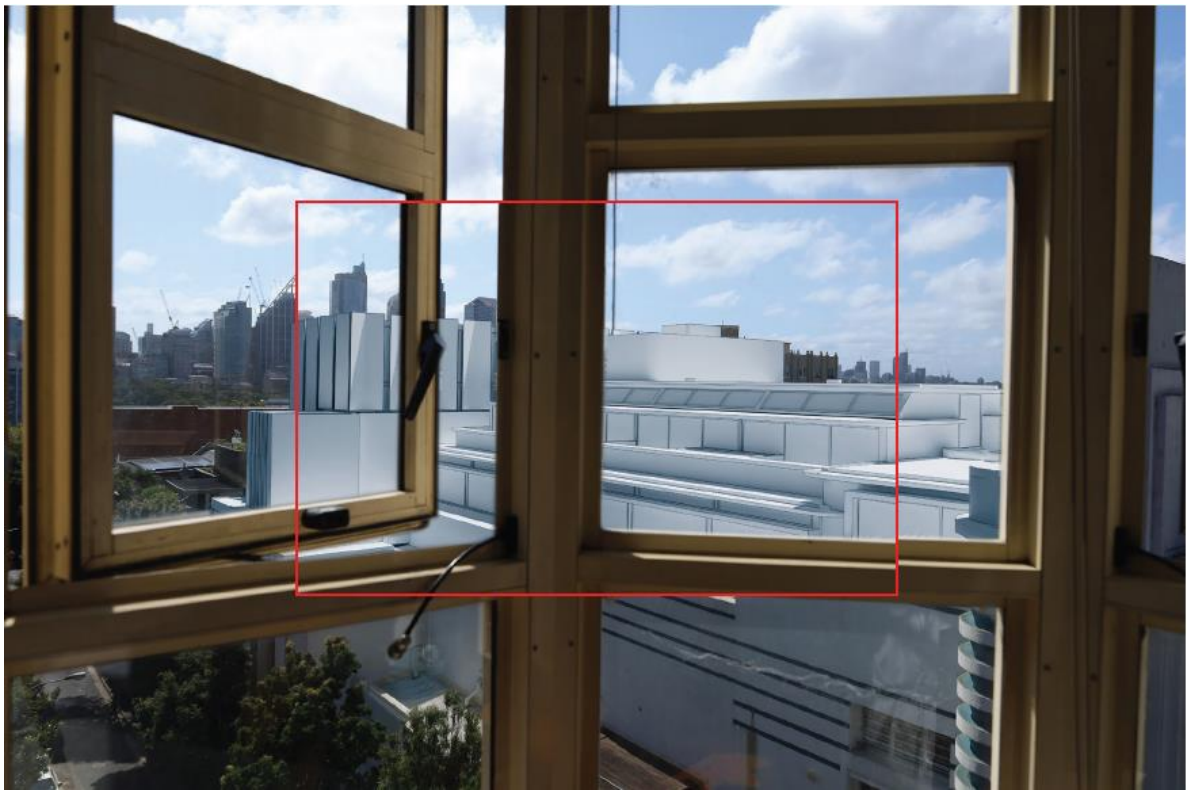

**Figure 56:** A wider viewpoint from the bedroom window of Unit 506 showing the proposal as modelled.



**Figure 57:** View from bedroom window of Unit 506 showing the unobstructed view to 25 Martin Place (previously known as MLC Centre).



**Figure 58:** View from the living room of Unit 506.

159. Unit 404, Level 4, 113-115 Macleay Street:

(a) Views to be affected: Views of the Sydney Harbour Bridge. This view is already obscured by other buildings between the subject site and the bridge, and whilst most of the arch of the bridge remains visible, it is a partial view not a whole view.

(b) Part of property viewed from: Views are from Viewpoint 15 (living room), 16 (bedroom) and 17 (living room) which is the north facing living room and bedroom.

(c) Extent of impact: A portion of the views to the Sydney Harbour Bridge are obstructed when viewed from the north-facing bedroom and living room. The majority of the arch would remain visible from Viewpoints 15 and 16 whilst the majority of the bridge would be obstructed from Viewpoint 17.

(d) Reasonableness: Unit 404 is located on Level 4 and views are more difficult to retain due to the lower height of the unit. The views are obstructed by the first level of the vertical addition which is compliant with the 22 metre height control. The majority of the view of Sydney Harbour Bridge is retained from two of the viewpoints (15 and 16). In the above context, the view impacts of the proposal are reasonable in this instance.



**Figure 59:** The existing view from the living room (Viewpoint 17) of Unit 404.



**Figure 60:** The impact on the view of the Sydney Harbour Bridge from Viewpoint 17.



**Figure 61:** Another view (Viewpoint 15) from the living room of Unit 404.



**Figure 62:** The impact from Viewpoint 15 on views to the Sydney Harbour Bridge.



**Figure 63:** The existing view from the bedroom (Viewpoint 16) from Unit 404.



**Figure 64:** The impact on the view of the Sydney Harbour Bridge from the bedroom (Viewpoint 16).

*View sharing - Conclusion*

160. The proposed additions will be visible from a number of adjoining buildings to varying degrees.

161. The view sharing assessment found that the protection of views from adjoining properties in not reasonable in this instance. This is due to several reasons outlined below:

    (a) Despite the proposal obscuring views from some apartments in buildings, the value of views that would be retained from these properties from other vantage points remains high, with

        (i) Unit 604 retaining views towards Sydney Harbour

        (ii) Unit 505 retaining views to the Sydney Harbour Bridge and a partial view to the Opera House

        (iii) Unit 506 retaining a partial view to the City skyline

        (iv) Unit 404 retaining views to the Sydney Harbour Bridge to varying degrees within the apartment.

    (b) Only partial views of the Sydney Harbour Bridge, Opera House are currently achieved, with the nearest objector being 1.74 kilometres from the Opera House, 2.4 kilometres from the Sydney Harbour Bridge.

    (c) Opportunities for a more skilful design to reduce the view impact would result in other impacts, such as streetscape and heritage impacts.

162. While it is acknowledged that the proposal is not without view sharing impacts, the results of the *Tenacity Consulting v Warringah Council [2004]* NSWLEC 140 assessment conclude that view loss from adjoining properties as a result of the proposed addition are reasonable for the reasons described above.

## Consultation

### Internal Referrals

163. The application was discussed with Council's:

    (a) Building Services Unit;

    (b) City Model Unit;

    (c) Environmental Health Unit;

    (d) Environmental Sustainability Advisor;

    (e) Licensed Premises Unit;

    (f) Heritage and Urban Design Unit;

    (g) Public Art Team;

(h) Public Domain Unit;

(i) Cultural Strategy Advisor;

(j) Specialist Surveyors;

(k) Transport and Access Unit;

(l) Tree Management Unit; and

(m) Waste Management Unit.

164. Generally, the referrals have advised that the proposal is acceptable subject to conditions, except where discussed elsewhere in this assessment report.

165. Where appropriate, these conditions are included in Attachment A.

## External Referrals

### Ausgrid

166. Pursuant to Section 2.48 of the Transport and Infrastructure SEPP, the application was referred to Ausgrid for comment.

167. A response was received raising no objections to the proposed development.

### Heritage Council of New South Wales

168. Pursuant to the Heritage Act, 1977, the application was referred to the Heritage Council of New South Wales on 12 August 2021.

169. General Terms of Approval were issued by the Heritage Council of New South Wales on 6 September 2022.

170. The amended application was re-referred to the Heritage Council of New South Wales on 9 March 2023, and amended General Terms of Approval were issued on 30 May 2023.

171. The application was further amended and was re-referred to the Heritage Council of New South Wales on 29 August 2023, and amended General Terms of Approval (Attachment D) were issued on 16 October 2023, and have been included in Attachment A.

### New South Wales Police Force

172. The application was referred to the New South Wales Police Force for comment.

173. No response was received.

### Water New South Wales

174. Pursuant to the Water Management Act, 2000, the application was referred to Water New South Wales on 12 August 2021.

175. General Terms of Approval were issued by Water New South Wales on 23 May 2022.

176. The amended application was re-referred to Water NSW on 9 March 2023, and amended General Terms of Approval were issued on 29 March 2023, and have been included in Attachment A.

## Advertising and Notification

177. 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 17 August and 15 September 2021.

178. A total of 2,041 property owners and occupiers were notified and 178 submissions were received, including 11 in support, 164 objecting, 3 comments and a petition in opposition with 1,799 signatures.

179. The amended application was re-notified for a period of 14 days between 31 March and 15 April 2023. A total of 55 submissions were received during the re-notification period, including 7 in support, 47 objecting, a petition with 1,773 signatures in opposition, and 1 comment.

180. The submissions raised the following issues:

(a) **Issue**: Support for the proposal due to:

(i) The proposal saves and restores the historic building

(ii) The proposal will bring passive surveillance to the area

(iii) The proposal is by a private developer and will not cut into taxpayer funds

(iv) A huge theatre is not needed in the area, and there are other theatres within a short distance

(v) The creation of multiple venues allows varied performance and function type

(vi) The distinguished hotel and entertainment operator will draw more tourists and visitors to the area

(vii) The hotel will ensure the viability of the venue use

(viii) The proposal will create job opportunities for local residents

(ix) The proposal addresses community needs whilst being financially viable

(x) The additions will hardly be visible from the street

**Response**: These comments are noted.

(b) **Issue**: The former theatre use should be reinstated. There is demand for a 800-1,000 seat theatre in Sydney. The applicant's Feasibility Study Review is limited in its findings and there are workable solutions to return the building to a theatre.

**Response**: As discussed above, the existing land use of the site is not a theatre, and proposed land use is a permissible use that is acceptable when assessed against the relevant planning controls, and subject to the conditions included in Attachment A. A multi-purpose theatre is not proposed as part of the development application, however the proposal will return an entertainment use to part of the building for the first time in 44 years.

(c) **Issue**: Noise impacts to surrounding residential uses from the use, patrons, and from the lift and mechanical plant. The Noise Impact Assessment is inadequate.

**Response**: As discussed above, a Noise Impact Assessment Report has been submitted with the development application and has been reviewed by Council's Acoustic Specialist. The report has demonstrated that the proposal is able to satisfy the relevant noise criteria with the hours of operation and capacity proposed. Conditions have been included in Attachment A that restrict the capacity of the entertainment facility to 250 patrons and restrict the hours of operation of the entertainment facility to 1am and the small bar to midnight. A number of conditions are recommended in Attachment A to ensure that noise from the use and from mechanical plant complies with the relevant acoustic criteria.

(d) **Issue**: The proposal will result in anti-social behaviour

**Response**: The proposed uses of an entertainment facility and small bar are permissible land uses and appropriate measures are in place to ensure that impacts from anti-social behaviour are minimised, including those outlined in the Plan of Management submitted with the application. A number of conditions are included in Attachment A, including the requirements of security and surveillance cameras, as well as limiting the extended hours of operations of the entertainment facility and small bar to a one year trial period to enable the operational performance of the venue to be monitored to ensure it is well managed.

(e) **Issue**: The hours of operation are inappropriate within a residential context and inconsistent with surrounding licensed premises

**Response**: As discussed above, conditions are included in Attachment A that restrict the base hours of operation of the entertainment facility and small bar to 11pm, with a one year trial to 1am for the entertainment facility and to 12.00 midnight for the small bar. These hours of operation are consistent with the provisions of the late night trading premises controls, which permit Category B dedicated performance venues an additional hour of operation at closing time on a trial period.

(f) **Issue**: The patron capacity of over 800 patrons across the various venues is unacceptable

**Response**: The application was amended to reduce the patron capacity across all uses from 870 patrons to a maximum of 390. A condition is included in Attachment A that restrict the maximum patron capacity across all uses to 390 patrons, with the maximum capacity for the entertainment facility being 250 patrons.

(g) **Issue**: The proposal results in a significant exceedance to the height control of the Sydney LEP 2012 and the Clause 4.6 is not justified.

**Response**: As discussed elsewhere in this assessment report, the proposed height of the development is acceptable, and the Clause 4.6 request is supported.

(h) **Issue**: The proposal is an overdevelopment of the site.

**Response**: The proposal is consistent with the floor space ratio development standard of the Sydney Local Environmental Plan 2012 and has satisfied the requirements of the planning controls as discussed in this report.

(i) **Issue**: No vertical additions should be supported to the buildings

**Response**: The assessment considered the impact of vertical additions to the heritage significance of the buildings as well as the structural impact of the additions on the existing heritage fabric. A number of conditions are included in Attachment A to ensure that the vertical additions do not result in the loss of significant internal fabric or undermine the structural stability of the buildings. The proposal was considered by Heritage NSW who granted General Terms of Approval. The proposed vertical additions are acceptable, subject to conditions.

(j) **Issue**: View loss from properties at 113-115 Macleay Street and 5 Orwell Street. That the view impact assessment has not considered the communal roof terrace of 25 Hughes Street.

**Response**: As discussed elsewhere in this assessment report, a view impact assessment has been carried out for 113-115 Macleay Street and 5 Orwell Street and the proposal is consistent with the view sharing planning principles established by the Land and Environment Court of New South Wales. The city skyline views from the communal roof terrace are not impacted by the proposal due to the orientation of the site, with the views being to the west and the proposal being to the south of 25 Hughes Street.

(k) **Issue**: The proposed additions dominate the heritage item, and are not compatible with the character of the heritage items and conservation area

**Response**: The proposed additions differentiate between the existing building and new additions. The form of the addition is designed with a stepped form to minimise the perceived bulk and scale of the addition. The proposal was considered by Heritage NSW who granted General Terms of Approval.

(l) **Issue**: The proposal will result in a significant impact upon the heritage item including its internal features.

**Response**: The proposal was considered by Heritage NSW who granted General Terms of Approval. A detailed assessment of the internal fabric of the buildings has been carried out and conditions are included in Attachment A to ensure that significant internal fabric is retained.

(m) **Issue**: The works are irreversible and would not allow later conversion to a working live theatre.

**Response**: The proposal was considered by Heritage NSW who granted General Terms of Approval. The applicant has submitted additional information in the form of section drawings showing the steps that could be taken to reverse the proposed works (Attachment I). The applicant submits that the proposal re-instates the original theatre by removing the intrusive office additions which is considered a significant contribution to reversing the building to its most historically significant use.

(n) **Issue**: The proposed cabaret operator has no connection to the area.

**Response**: The application seeks consent for the use of the land, however the specific operator of the venue is not a matter for consideration as part of the assessment of the application.

(o) **Issue**: Impact of excavation on neighbouring buildings.

**Response**: The proposal has been amended to reduce the depth of excavation from 4 levels to 2 levels and by reducing the footprint of the basement floorplans. The proposed excavation is considered to be acceptable, and a number of conditions have been recommended to ensure that the proposed works do not impact upon neighbouring properties.

(p) **Issue**: Hotel rooms do not have sufficient natural amenity and are undesirable.

**Response**: The proposal is consistent with the requirements for hotel amenity under the Sydney Development Control Plan 2012 and a condition is recommended in Attachment A to increase the size of the lightwell to provide additional natural light to hotel rooms.

(q) **Issue**: Visual privacy impacts to neighbouring residential properties including 113-115 Macleay Street and 25 Hughes Street, including the communal roof terrace of 25 Hughes Street.

**Response**: As discussed elsewhere in this assessment report, the proposal does not result in unreasonable privacy impacts to neighbouring dwellings or the communal roof terrace of 25 Hughes Street.

(r) **Issue**: Impact on light to dwellings at 25 Hughes Street.

**Response**: Due to the orientation of the site, the proposal does not result in any midwinter overshadowing to 25 Hughes Street. The current compliance levels under the National Construction Code (NCC) for natural light to habitable rooms within 25 Hughes Street are maintained, as horizontal distance of greater than 1 metre is maintained between the windows and the wall of the site, and as the height of the wall within which the windows are located (being the rear wall of 25 Hughes Street) does not change in height. In addition, natural light is maintained from existing mid-block lightwells within 25 Hughes Street.

(s) **Issue**: Overshadowing impacts to neighbouring properties.

**Response**: Due to the orientation of the site, the proposal will not result in significantly adverse overshadowing impacts to living room windows or private open space areas of adjoining residential properties.

(t) **Issue**: Overshadowing impacts to Springfield Gardens.

**Response**: As discussed above, the proposal has been designed to minimise overshadowing impacts to the park known as Springfield Gardens by stepping back each level of the addition. The overshadowing controls of the Sydney Development Control Plan 2012 have been satisfied.

(u) **Issue**: The location of a substation within Springfield Gardens is inappropriate.

**Response**: The proposal was amended to locate the substation within the existing building.

(v) **Issue**: Sustainability measures should be included.

**Response**: The proposal has been reviewed by Council's Environmental Sustainability advisor who has advised that the proposal is capable of satisfying the relevant sustainability criteria, subject to conditions as included in Attachment A.

(w) **Issue**: The applicant should nominate a responsible manager to liaise with surrounding property owners during the construction period and once operation has commenced.

**Response**: During construction, a certifier will be appointed who will oversee the construction period and be the point of contact for the community. A condition is recommended in Attachment A that requires a site notice to be displayed with the relevant contact details. A condition is also recommended that, once operational, the site is to have a manager on-site 24-hours per day with their contact phone number made available to guests, local residents and neighbours, police and local council.

(x) **Issue**: Orwell Street and Orwell Lane should be upgraded to shared zones, and Springfield Gardens should be upgraded.

**Response**: The upgrading of Orwell Street, Orwell Lane and Springfield Gardens as part of this development is not required under the planning controls. Council's Traffic Operations team have recommended that a continuous footpath treatment be provided across Orwell Lane to improve pedestrian safety, and this is recommended in Attachment A. A condition is also recommended in Attachment A relating to the payment of Section 7.11 contributions, which goes towards the maintenance of community infrastructure including roads and parks.

(y) **Issue**: There was no true consultation with surrounding residents and neighbours prior to the development application being lodged.

**Response**: There is no requirement under the Environmental Planning and Assessment Act, 1979 for applicants to consult with neighbours prior to submitting development applications.

(z) **Issue**: The notification period was insufficient to digest the amount of information submitted with the development application.

**Response**: The proposal was notified for a period of 28 days. Where submitters made requests for additional time to provide their submission, these requests were granted.

(aa) **Issue**: Asbestos must be carefully managed

**Response**: Conditions are included in Attachment A to ensure the safe removal of any asbestos from the site.

(bb) **Issue**: Risk of hazardous materials on site.

**Response**: Conditions relating to hazardous material are included in Attachment A.

(cc) **Issue**: Additional waste will exacerbate existing vermin problems.

**Response**: Waste rooms are to be provided on site and conditions are included in Attachment A to ensure that they are designed to appropriate standards, and to ensure vermin issues can be managed appropriately.

(dd) **Issue**: Insufficient space for waste collection is proposed and waste bins should not be left on the street.

**Response**: A waste room of sufficient size is proposed and meets Council's requirements. Conditions relating to waste removal are recommended in Attachment A, and waste bins are not permitted on the street.

(ee) **Issue**: Waste collection should not occur prior to 8am to avoid disturbance to neighbouring residential properties.

**Response**: A condition is recommended in Attachment A that requires the collection of waste and recycling to 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. This allows waste and recycling to be collected from 6am on Mondays to Saturdays and from 8am on Sundays.

(ff) **Issue**: Surrounding streets are already congested and cannot handle more traffic or impacts to on-street parking. Orwell Street may be blocked by additional traffic or loading.

**Response**: The site is located in close proximity to public transport infrastructure and only two parking spaces are proposed, which will ensure that the proposal does not result in any unreasonable impacts through traffic congestion. Conditions are recommended in Attachment A in relation to the provision of pick-up and drop-off space and on-site loading.

(gg) **Issue**: Impact from traffic during construction.

**Response**: A condition is recommended that requires the submission of a Construction Traffic Management Plan.

(hh) **Issue**: The traffic impact of the proposal and impact to pedestrian safety has not been adequately addressed.

**Response**: The proposal has been reviewed by Council's Transport Planner and Traffic Operations Unit and is acceptable subject to recommended conditions.

(ii) **Issue**: Servicing, parking and bicycle access via a car lift is inappropriate.

**Response**: The proposal was amended to delete the level of basement parking and to delete the car lift. The servicing and bicycle parking arrangements have been reviewed by Council's Transport planner and are acceptable.

(jj) **Issue**: The hours of construction must be restricted.

**Response**: Conditions are included in Attachment A to restrict construction hours to Council's standard construction hours.

(kk) **Issue**: The construction will result in noise and dust and impact upon neighbouring residents.

**Response**: A number of conditions are included in Attachment A to minimise the construction impacts from the proposal.

(ll) **Issue**: New openings should not be permitted to the side walls of the fly tower as these walls are on the boundary.

**Response**: The proposal was amended to remove new openings from the fly tower walls on the side boundary. A condition is also included in Attachment A that notes that any windows or openings on the side boundary may be blocked by future development of neighbouring properties.

(mm) **Issue**: All supporting documentation, including the Statement of Environmental Effects and Heritage Impact Statement, was not updated when the amended application was re-submitted and re-notified.

**Response**: When the amended application was submitted the applicant provided a cover letter that detailed the amendments made, as well as a range of supporting documents. Sufficient additional information has been provided to enable a thorough assessment of the application.

## Financial Contributions

### Contribution under Section 7.11 of the Environmental Planning and Assessment Act 1979

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

182. Credits have been applied for the most recent approved use of the site, being production studios, which is defined as light industry.

183. A condition relating to this development contribution has been included in the recommended conditions of consent in Attachment A.

184. The condition requires the contribution to be paid prior to the issue of a construction certificate.

### Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

185. Section 7.32 of the Environmental Planning and Assessment Act 1979 outlines that the consent authority may grant consent to a development application subject to a condition requiring dedication of part of the land for the purpose of providing affordable housing, or payment of a monetary contribution to be used for the purpose of providing affordable housing where the section of the Act applies. The act applies with respect to a development application for consent to carry out development within an area if a State environmental planning policy identifies that there is a need for affordable housing within the area and:

    (a) the consent authority is satisfied that the proposed development will or is likely to reduce the availability of affordable housing within the area, or

    (b) the consent authority is satisfied that the proposed development will create a need for affordable housing within the area, or

    (c) the proposed development is allowed only because of the initial zoning of a site, or the rezoning of a site, or

    (d) the regulations provide for this section to apply to the application.

186. The proposal is consistent with the criteria under part café that is, the proposed uses are permissible under the initial zoning of the site.

187. Section 7.32 (3)(c) allows a condition to be imposed on the following basis:

    (c) the condition requires a reasonable dedication or contribution, having regard to the following—

    (i) the extent of the need in the area for affordable housing,

    (ii) the scale of the proposed development,

    (iii) any other dedication or contribution required to be made by the applicant under this section or section 7.11.

188. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable.

189. The City of Sydney Affordable Housing Program (Affordable Housing Program) identifies the need for affordable housing in the area and identifies the appropriate contributions and therefore addresses 7.32 (3) (c) (i) above.

190. The site is located within residual land of the affordable housing contribution area.

191. As the proposed development includes additional floor space, a contribution is required at a rate of $10,611.53 multiplied by 0.5% of the of total floor area of 6,490.9 square metres, totalling $344,391.86

192. A condition of consent is included in Attachment A requiring payment prior to the issue of a construction certificate.

## Relevant Legislation

193. Environmental Planning and Assessment Act 1979.

194. City of Sydney Act 1988.

195. Heritage Act 1977.

196. Water Management Act, 2000.

## Conclusion

197. The proposal seeks consent for alterations and additions to the existing building including new basement levels, for an adaptive reuse to mixed use development. The proposed uses include a hotel with 63 rooms, cafe, entertainment facility, and small bar.

198. The proposed development is compliant with the permitted floor space ratio and the variation to the Sydney Local Environmental Plan 2012 height standard is subject to a written Clause 4.6 variation request, which is supported.

199. The site is listed on the State Heritage Register and the application was referred to Heritage New South Wales. The application was amended to address recommendations made by Heritage New South Wales, who have granted General Terms of Approval. As approval has been granted by Heritage New South Wales, the consent authority must not refuse development consent on heritage grounds in accordance with Clause 4.48 of the Environmental Planning and Assessment Act, 1979. The amended General Terms of Approval granted on 16 October 2023 are based on the latest set of amended plans.

200. An independent Heritage Committee was appointed, as required by the Sydney Development Control Plan 2012. The Committee did not support the proposal, however a number of conditions have been recommended in response to their advice.

201. The proposal was considered by the Design Advisory Panel who support the adaptive reuse of the building. They raised a number of issues which have been addressed in the assessments and by recommended conditions of consent.

202. It is recommended that the hours of operation be restricted to base hours of 11.00pm with an extension to 1.00am the following day for the entertainment facility and 12.00 midnight for the small bar on a trial basis for 1 year to ensure that the proposal does not impact upon neighbouring residential properties.

203. A view loss assessment has been carried out which has demonstrated that the proposal will not have an unreasonable impact on views from surrounding properties to the Sydney Harbour Bridge, Opera House, harbour, and city skyline.

204. The development application was reported to the Local Planning Panel on 19 July 2023 with a recommendation for deferred commencement approval. The Panel deferred consideration of the development application to enable the applicant to submit additional information and amended plans to address a number of concerns raised by the Panel. The applicant has submitted amended plans and additional information in response to the Panels comments.

205. An amended estimated cost of development of $69,107,997 was submitted. The City engaged an independent Quantity Surveyor to carry out a peer review, and they agreed with the revised estimated cost of development.

206. The proposed development is considered to respond appropriately to the desired future character of the area, it demonstrates design excellence, it largely preserves the appearance of the Minerva externally, has sensitive additions and is recommended for deferred commencement approval. Deferred commencement conditions are recommended requiring the final structural solution to be submitted prior to the consent becoming operative.

**GRAHAM JAHN, AM**

Director City Planning, Development and Transport

Matthew Girvan, Area Coordinator

# Attachment A

## Recommended Conditions of Consent

**SECTION A - DEFERRED COMMENCEMENT CONDITIONS (CONDITIONS TO BE SATISFIED PRIOR TO CONSENT OPERATING)**

**SCHEDULE 1**

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) FINAL STRUCTURAL DRAWINGS**

The following information is to be submitted to and approved by Council's Director City Planning Development & Transport:

(a) The final structural design related to the existing retained buildings is to be consistent with the TTW Structural report titled Structural Engineering Clarifications for DA dated 2 December 2022.

(b) The final detailed structural drawings including all strengthening works proposed for existing retained fabric must be submitted.

(c) The final detailed services (electrical, air-conditioning, plumbing, fire) layout that has been coordinated with architectural drawings must be submitted.

(d) Confirmation of the thickness of the concrete slabs of Levels 3 and 4 must be submitted. Any change in thickness of these concrete slabs due to any structural design changes must not result in these slabs moving any closer to the heritage ceiling fabric.

(e) A Demolition, Excavation and Construction Methodology Report that includes methodology for both demolition and construction for the subject site must be submitted. The report is to provide evidence that satisfactorily instructs how to support and maintain the retained structure and it's footings in a detailed and systematic form.

(f) A Final Geotechnical Report with additional cored borehole information and confirmation of the size and location of existing footings must be submitted (for any investigative works a relevant exemption should be obtained).

(g) A consolidated set of coordinated architectural, structural, and services drawings must be submitted.

The final design submitted to Council must minimise the impact upon, and interference of, significant heritage fabric, enable significant ceilings and structural elements to be exposed to view and conserve the historic character of the interiors.

(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 Section B Conditions of Consent (Once the Consent is Operation) of the subject Notice of Determination.

**SECTION B – CONDITIONS OF CONSENT**

**PART A - GENERAL**

**(1) APPROVED DEVELOPMENT**

(a) Development must be in accordance with Development Application No. D/2021/893 dated 05/08/2021 and the following drawings prepared by Tonkin Zulaikha Greer:

| Drawing Number | Drawing Name | Date | Rev |
|---|---|---|---|
| A-000 | Cover Page | 16/08/2023 | F |
| A-002 | Site Analysis | 1/03/2023 | - |
| A-051 | Basement 2 Demolition Plan | 1/03/2023 | B |
| A-052 | Basement 1 Demolition Plan | 1/03/2023 | B |
| A-053 | Ground Demolition Plan | 1/03/2023 | C |
| A-054 | Level 1 Demolition Plan | 1/03/2023 | C |
| A-055 | Level 2 Demolition Plan | 1/03/2023 | - |
| A-056 | Level 3 Demolition Plan | 1/03/2023 | A |
| A-057 | Level 4 Demolition Plan | 1/03/2023 | A |
| A-058 | Level 5 Demolition Plan | 1/03/2023 | A |
| A-059 | Roof Demolition Plan | 1/03/2023 | - |
| A-060 | Ground RCP Demolition | 1/03/2023 | A |
| A-061 | Level 1 RCP Demolition | 1/03/2023 | - |
| A-062 | Level 3 RCP Demolition | 1/03/2023 | A |
| A-070 | Demolition South Elevation | 1/03/2023 | B |
| A-071 | Demolition North Elevation | 1/05/2023 | C |
| A-072 | Demolition East Elevation | 1/03/2023 | C |
| A-073 | Demolition West Elevation | 1/03/2023 | A |
| A-080 | Long Section Demolition | 1/03/2023 | D |
| A-081 | Cross Section A Demolition | 1/03/2023 | D |
| A-102 | Basement 2 Floor Plan | 16/08/2023 | F |

| Drawing Number | Drawing Name | Date | Rev |
|---|---|---|---|
| A-103 | Basement 1 Floor Plan | 16/08/2023 | E |
| A-104 | Ground Floor Plan | 16/08/2023 | I |
| A-105 | Level 1 Plan | 16/08/2023 | G |
| A-106 | Level 2 Plan | 16/08/2023 | G |
| A-107 | Level 3 Plan | 16/08/2023 | D |
| A-108 | Level 4 Plan | 16/08/2023 | E |
| A-109 | Level 5 Plan | 16/08/2023 | F |
| A-110 | Level 6 Plan | 16/08/2023 | E |
| A-111 | Roof Plan | 16/08/2023 | D |
| A-121 | Auditorium RCP Proposed Ground Floor – Level 3 | 1/03/2023 | D |
| A-200 | South Elevation | 1/03/2023 | D |
| A-201 | South Elevation Fly Tower Facade | 1/03/2023 | E |
| A-202 | North Elevation | 16/08/2023 | E |
| A-203 | North Elevation Fly Tower Facade | 16/08/2023 | F |
| A-204 | East Elevation | 16/08/2023 | E |
| A-205 | East Elevation Fly Tower Facade | 16/08/2023 | E |
| A-206 | West Elevation | 1/03/2023 | C |
| A-207 | West Elevation Fly Tower Facade | 1/03/2023 | C |
| A-208 | West Elevation Inner Façade | 1/03/2023 | D |
| A-300 | Longitudinal Section 1 | 1/03/2023 | E |
| A-301 | Cross Section 1 | 1/03/2023 | E |
| A-302 | Cross Section 2 | 1/03/2023 | E |
| A-303 | Longitudinal Section 2 | 16/08/2023 | F |

| Drawing Number | Drawing Name | Date | Rev |
|---|---|---|---|
| A-304 | Longitudinal Section 3 | 1/03/2023 | E |
| A-305 | Cross Section 3 | 1/03/2023 | E |
| A-601 | Materials Board | 1/03/2023 | C |
| A-602 | Flytower Window Schedule | 1/03/2023 | D |

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 lightwell must be increased in width from Level 2 to Level 6 so that it is 1.92 metres wide from the hotel room facade to the inner face of the flytower wall.

(b) The new roller door must be re-designed so that it is sympathetic to the aesthetic values of the building.

(c) An airlock must be provided at the main ground floor entry doors to Orwell Street and must be designed to satisfy the performance criteria outlined in the Noise Impact Assessment prepared by Pulse White Noise Acoustic dated 13 June 2023 ref 210050 Rev 9, titled Metro Theatre Hotel, Council Ref: 2023/377647. Design details are to be submitted at a scale of 1:10.

(d) The original steel framed windows on the south and east facade of the main foyer area of exceptional significance must be retained. New internal glazed windows construction must be provided to these windows that satisfies the performance criteria outlined in the Noise Impact Assessment prepared by Pulse White Noise Acoustic dated 13 June 2023 ref 210050 Rev 9, titled Metro Theatre Hotel, Council Ref: 2023/377647. Design details are to be submitted at a scale of 1:10.

(e) A wall and door are located between the 'Equipment store' and the gymnasium located on basement level 2, so that the ‘Equipment store’ is designed as a storeroom.

(f) The number of accessible hotel rooms is to be increased from 3 rooms to 4 rooms.

(g) The ground floor cafe service counter is to be shown the plans and must not abut any windows.

(h) The screening to room 5.01 is to be re-designed to ensure that it is located wholly within the boundary of the subject site whilst maintaining visual privacy of the communal roof terrace of 25 Hughes Street.

The modifications are to be submitted to and approved by Council's Director City Planning Development & Transport 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) BUILDING HEIGHT**

(a) The height of the building must not exceed RL 24.92 (AHD) to the top of the building.

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

**Reason**

To ensure the constructed development complies with the approved height.

**(4) SECTION 60 APPLICATION**

An application under section 60 of the *Heritage Act, 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

**Reason**

To meet legislative requirements.

**(5) COMPLIANCE WITH APPROVAL GRANTED UNDER THE HERITAGE ACT 1977**

The development must be carried out in accordance with the terms of the Section 60 approval issued by the Heritage Council of NSW (or delegate).

**Reason**

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

**(6) CEILING**

(a) The number of penetrations to the ceiling must be minimised, and penetrations must be repaired once temporary structures are removed. Details of the size and number of holes to the ceiling, and the method of repair work are to be submitted to and approved by Council's Director City

Planning Development & Transport prior to the issue of a Construction Certificate.

(b) The final locations and fixing methodology for sprinklers and associated plumbing system are to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

(c) There must be no other attachments to the ceiling or on top of the ceiling to ensure that the ceiling fabric remains protected. Speakers must not be located within the ceiling.

**Reason**

To ensure the ceiling is adequately protected.

**(7) GRAND STAIRCASE UPGRADE**

Details of any upgrade works to the grand staircase, including the handrail upgrade, are to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate. Drawings are to be submitted at a scale of 1:5 or 1:10 and include materials details and specifications, with dimensioned drawings.

**Reason**

To ensure a suitable design outcome.

**(8) DRESS CIRCLE BOXES AND MOULDING**

(a) The semi-circular Dress Circle boxes and connecting moulded balustrade in the auditorium are to be retained and conserved.

(b) The support and protection system to retain the Dress Circle boxes and connecting moulded balustrade on Level 1 during demolition and construction works are to be submitted to and approved by Council's Director City Planning Development & Transport prior to the issue of a Construction Certificate.

**Reason**

To ensure the semi-circular Dress Circle boxes and connecting moulded balustrade are adequately protected.

**(9) PROTECTION OF OPENINGS**

The final methods of protection to openings for fire separation are to be designed so that they are consistent and compatible with the heritage significance of the building and are to be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

**Reason**

To ensure the design of the methods to protect openings are appropriate for the design of the building.

**(10) FLY TOWER WALLS AND MURAL**

The following information must be submitted to and approved by Council's Director City Planning Development & Transport prior to the issue of a Construction Certificate:

(a) Details of the waterproofing treatment to the flytower walls that are to be exposed in the lightwell.

(b) Details are to be submitted of the connection of the new structure, including beams, columns and slabs, to the existing flytower walls.

(c) Details of the mural to be provided to the inside face of the flytower wall is to be provided. The mural must be reversible, weatherproof and designed in a way that it does not have an adverse impact on the heritage fabric.

(d) Information relating to the future maintenance and upkeep of the mural.

**Reason**

To ensure the existing flytower walls are adequately protected.

**(11) 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 Director City Planning Development & Transport 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) Where internal partitions meet external walls they must not abut windows.

**Reason**

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

**(12) 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.

**(13) APPROVED DESIGN ROOFTOP PLANT**

All rooftop plant and associated equipment must be located within the approved building envelope.

**Reason**

To ensure the constructed development complies with the approved height.

**(14) COMPLIANCE WITH SUBMITTED MATERIALS AND SAMPLES BOARD**

The design details of the proposed building facade including all external finishes, colours and glazing must be in accordance with the materials schedule and sample board, and specifications reference number A-601, Revision C prepared by Tonkin Zulaikha Greer and dated 1 March 2023.

**Reason**

To ensure all parties are aware of the approved materials and finishes that apply to the development.

**(15) FLOOR SPACE RATIO - ALL OTHER AREAS**

The following applies to Floor Space Ratio:

(a) The Floor Space Ratio must not exceed 3.49:1 calculated in accordance with Sydney Local Environmental Plan 2012. For the purposes of the calculation of FSR, the total Gross Floor Area is 4,416.75 square metres.

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

**Reason**

To ensure the constructed development complies with the approved floor space ratio.

**(16) DESIGN QUALITY EXCELLENCE**

(a) In order to ensure the design quality excellence of the development is retained to completion:

(i) The design architect comprising Tonkin Zulaikha Greer is to have direct involvement in the design documentation, contract documentation and construction stages of the project including signing off any required certifications at Development Application, Section 4.55 Modification Applications, Construction Certificate and Occupation Certificate stages;

(ii) The design architect must have full access to the site and is to be authorised by the applicant to respond directly to Council where information or clarification is required in resolving design issues throughout the life of the project;

(iii) Evidence of the design architect's commission must be provided to the Council prior to release of the Construction Certificate.

(b) The design architect of the project is not to be changed without prior notice and approval of the Council's Director Planning, Development & Transport.

The Accredited Certifier and Principal Certifier must be satisfied that the above matters are complied with prior to the issue of a relevant Construction and Occupation Certificates, in accordance with written confirmation from Council.

**Reason**

To ensure the development maintains design quality excellence throughout all phases of the development.

**(17) FOOTWAY SEATING NOT APPROVED**

No outdoor seating is approved as part of this application. A separate footway (outdoor dining) approval under the *Roads Act, 1993* (NSW) is required.

**Reason**

To ensure outdoor dining areas are appropriately assessed and determined.

**(18) NO CHARCOAL OR SOLID FUEL COOKING**

No charcoal or solid fuel cooking is approved as part of this application.

For the purpose of this condition solid fuel cooking is defined as any solid material used as a fuel to produce energy and provide heating through combustion for the purpose of cooking. Solid fuels will include but are not limited to wood, charcoal, peat, coal etc.

**Reason**

To restrict the provision of charcoal or solid fuel cooking on the premises.

**(19) SECTION 7.11 CONTRIBUTIONS PAYABLE - CONTRIBUTION TOWARDS PUBLIC AMENITIES – CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2015 – EAST 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 | $599,644.50 |
| Community Facilities | -$13,707.80 |
| Traffic and Transport | $16,973.05 |
| Stormwater Drainage | $0.00 |
| Total | $602,909.75 |

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.

**(20) AFFORDABLE HOUSING CONTRIBUTION – RESIDUAL LAND – PAYMENT IN LIEU OF FLOOR SPACE CONTRIBUTION – PRIOR TO CONSTRUCTION CERTIFICATE**

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

(b) The contribution is $344,391.86 (indexed at 19 July 2023). This is calculated by establishing the sum of the equivalent monetary contribution $10,611.53 multiplied by 0.5% of the total floor area for non-residential development, being 6,490.9 square metres.

(c) If the contribution is paid after the indexation period in which the consent is granted, being 1 March 2023 to 29 February 2024, the above contribution will be adjusted according to the Sydney LGA median strata dwelling price ('MDP') using the following formula.

(d) Contribution payable at Time of Payment = C x MDP2 / MDP1, where:

(i) C is the original total contribution amount payable to the City of Sydney as shown above;

(ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA taken from the most recent NSW Government Rent and Sales Report at the time of indexation of the equivalent monetary contribution rate; and

(iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Report used to establish the current equivalent monetary contribution rate, being 1 March 2023 to 29 February 2024.

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

**Reason**

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

**(21) EXTERNAL LIGHTING**

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

**Reason**

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

**(22) FIRE HYDRANT DOOR**

(a) The fire hydrant doors are to be of a high-quality design, and the design details must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate.

(b) The doors must not swing over public land.

**Reason**

To ensure an appropriate streetscape outcome.

**(23) 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.

**(24) PUBLIC ART**

Public art must be installed to the City's satisfaction prior to the issue of any Occupation Certificate.

(a) Public art is to be prepared that is consistent with the preliminary public art plan and be provided in a location visible from the public domain.

(b) The public artwork must be in accordance with the Sydney DCP 2012, the City of Sydney Public Art Policy, and the City of Sydney Interim guidelines: public art in private developments.

(c) A shortlist of artists is to be submitted to the City's Public Art Team prior to the selection of final artists. Public art must be reviewed and endorsed by the City's Public Art Team and/or the Public Art Advisory Panel prior to submission to Council's Director City Planning Development & Transport for approval. Further information is available online at http://www.cityofsydney.nsw.gov.au/explore/arts-and-culture/public-art

(d) Final details of both proposed public artworks must be submitted to and approved by Council's Area Planning Manager to issue of any Construction Certificate for above ground works.

(e) Both public art works must be installed to the City's satisfaction prior to the issue of any Occupation Certificate.

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.

**(25) SIGNAGE STRATEGY**

(a) The signage strategy prepared by Tonkin Zulaikha Greer drawing numbers A-210 Revision C, and A-211 Revision D, and dated 01/03/2023 is not approved.

(b) The signage strategy must be amended as follows:

(i) Delete signage zone 5 from the flytower addition.

(ii) Delete the three display panels (signage zones 4) from the Orwell Lane frontage (noting that the two southern zones can be used for public art and/or heritage interpretation).

(c) The amended signage strategy must be submitted to and approved by Council's Director City Planning Development & Transport prior to the issue of a Construction Certificate. The signage strategy must include information and scale drawings of the location, type, construction, materials and total number of signs appropriate for the building.

**Reason**

To require further approval to be obtained for a signage strategy.

**(26) ERECTION OF SIGN**

(a) The approved corner sign 'Minerva' is to be erected in a secure manner to ensure safety and its installation is not to involve measures that would cause irreversible damage to the building.

(b) The approved corner sign 'Minerva' must not be illuminated.

**Reason**

To ensure signage installed does not cause irreversible damage to the building.

**(27) 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.

**(28) SIGNS/GOODS IN THE PUBLIC WAY**

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

**Reason**

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

**(29) 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.

**(30) 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.

**(31) CHANGES TO KERB SIDE PARKING RESTRICTIONS**

A separate submission must be made to the Local Pedestrian, Cycling and Traffic Calming Committee via the City Infrastructure and Traffic Operations Unit seeking the City's approval for any changes to kerb side parking arrangements. There is no guarantee kerb side parking will be changed, or that any change will remain in place for the duration of the development use.

The submission must include two plans. One showing the existing kerb side parking restriction signs and stems, the second showing the proposed kerb side parking restriction signs and stems. Both plans must include chainages to all signs and stems from the kerb line of the nearest intersection.

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

Note: As parking in the City of Sydney Local Government Area is at a premium, it is recommended that the applicant should approach the Area Traffic Engineer to discuss the proposal before making a submission.

**Reason**

To require separate consent to be obtained for changes to kerb side parking arrangements.

**(32) SERVICE VEHICLE SIZE LIMIT**

The size of vehicles servicing the property must be a maximum length of 6.4 metres.

**Reason**

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

**(33) TREES THAT MUST BE RETAINED**

The existing trees detailed in Table 1 below be retained and protected in accordance with the conditions throughout construction and development.

Table 1 – Tree Retention:

| Tree No | Species: | Location |
|---|---|---|
| 1 | Syzygium species (Lilly Pilly) | Orwell Street tree |
| 2 | Syzygium species (Lilly Pilly) | Orwell Street tree |
| 3 | Syzygium species (Lilly Pilly) | Orwell Street tree |

**Reason**

To identify the trees that cannot be removed, must be retained and protected.

**(34) PAVING MATERIALS**

The surface of any material used or proposed to be used for the paving of colonnades, thoroughfares, plazas, arcades and the like which are used by the public must comply with AS/NZS 4586:2004 (including amendments) "Slip resistance classification of new pedestrian surface materials".

**Reason**

To ensure appropriate and safe paving materials are used.

**(35) NO OBSTRUCTIONS**

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

**Reason**

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

**(36) 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.

**(37) 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.

**(38) LAND SUBDIVISION**

Any proposal to subdivide the site, including any stratum subdivision of the building, will require a separate application to Council to obtain development consent and the subsequent approval of the plan of subdivision and issue of a Subdivision Certificate under Section 6.15 of the *Environmental Planning and Assessment Act, 1979*.

Any proposal to subdivide the site, including any stratum subdivision of the building, will require a separate application to Council to obtain development consent for the proposal and subsequent approval of the plan of subdivision and issue of the Subdivision Certificate under Section 6.15 of the *Environmental Planning and Assessment Act, 1979*.

**Reason**

To ensure separate development consent is sought for land subdivision.

**(39) LOT CONSOLIDATION**

All land titles within the site must be consolidated into one allotment. A plan of consolidation must be registered with NSW Land Registry Services, prior to any Occupation Certificate being issued. If an application is made to subdivide the site to reflect the approved development, the requirement for consolidation is waived.

**Reason**

To ensure the various allotments on the development site are consolidated.

## PART B – BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

### (40) MATERIALS AND SAMPLES BOARD – MAJOR DEVELOPMENT

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

**Reason**

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

### (41) NATIONAL CONSTRUCTION CODE COMPLIANCE - ALTERATIONS AND ADDITIONS - UPGRADE OF BUILDING IS REQUIRED

(a) Pursuant to Clause 64 of the *Environmental Planning and Assessment Regulation, 2021*, where currently non-compliant, the whole building must comply with the performance requirements relating to the following parts of the *National Construction Code (previously known as Building Code of Australia)* (NCC) including:

(i) Fire resistance and stability - Part C1;

(ii) Compartmentation and separation - Part C2;

(iii) Protection of openings - Part C3;

(iv) Provision for escape - Part D1;

(v) Construction of exits - Part D2;

(vi) Fire Fighting equipment – Part E1;

(vii) Smoke hazard management – Part E2;

(viii) Visibility in an emergency, exit signs and warning systems – Part E4;

(ix) Sanitary and other facilities – Part F2;

(x) Light and ventilation – Part F4;

(xi) Sound Transmission and Insulation – Part F5;

Prior to a construction certificate being issued, the Certifier must ensure that the proposed works and other upgrading works required by this condition satisfy the NCC by complying with Clause A2.1 of the NCC.

(b) If compliance with the conditions listed in (a) above cannot be achieved through the deemed-to-satisfy pathway, a performance solution in accordance with Part A2 of the NCC (previously known as BCA) must be prepared and submitted to the Registered Certifier illustrating how the

relevant performance provisions are to be satisfied, and must form part of the approval prior to a Construction Certificate being issued.

**Reason**

To ensure the works comply with relevant regulations.

**(42) STRUCTURAL CERTIFICATION FOR EXISTING BUILDING – ALTERATIONS AND ADDITIONS**

A qualified practising registered structural engineer must provide structural certification to the Certifier verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) of the *National Construction Code (previously known as Building Code of Australia)* prior to a Construction Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building.

**Reason**

To ensure the existing structure can support the new loads.

**(43) 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 of a Construction Certificate and Occupation Certificate the Registered 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.

**(44) ALLOCATION OF CAR 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 Accredited Certifier prior to the issue of a Construction Certificate.

| Car Parking Type | Number |
|---|---|
| Hotel and venue parking | 2 |
| Service vehicle spaces (Australian Standard AS2890 SRV size vehicle) | 1 |

**Reason**

To ensure the allocation of parking is in accordance with the Sydney Development Control Plan 2012.

**(45) CAR 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 Accredited Certifier prior to a Construction Certificate being issued.

**Reason**

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

**(46) BICYCLE PARKING AND END OF TRIP FACILITIES**

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

| Bicycle Parking Type | Number | Requirements |
|---|---|---|
| Staff/ Guest | 14 | Spaces must be Class 2 bicycle facilities |
| Visitor | 10 | Spaces must be Class 3 bicycle rails |
| End of Trip Facility Type | Number | |
| Showers with change area | 2 | |
| Personal lockers | 14 | |

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

**Reason**

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

**(47) CONSTRUCTION TRAFFIC MANAGEMENT PLAN**

(a) A Construction Traffic Management Plan must be submitted to and approved by Council's 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.

Construction Traffic and Pedestrian Management Plans must be prepared in accordance with Standard Requirements for Construction Traffic Management Plan on the City's website:

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

**Reason**

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

**(48) MECHANICAL PARKING FACILITIES (VEHICLE TURNTABLE)**

The following details must be submitted to an approved by the Principal Certifier prior to the issue of the issue of a Construction Certificate:

(a) A review of the proposed installation by the manufacturer and its suitability for implementation in accordance with the manufacturer's specifications including but not limited to compliance with AS/NZS 2890.1 2004 and its references to AS/NZS 28590.6.

(b) Implementation of mechanisms addressing potential safety concerns including but not limited to:

(i) Queuing potential and the need for onsite waiting space/s

(ii) The potential trip hazard posed by the platforms to pedestrians walking within the car parking areas, and

(c) Any further information requested by the Principal Certifier.

**Reason**

To ensure that the impacts of traffic movements are appropriately managed.

**(49) BOUNDARY WINDOWS COVENANT**

(a) All windows on to the northern boundary of the site must be sealed, bricked up or otherwise enclosed, prior to the construction of any building abutting, adjoining or adjacent to such windows. Should the windows to hotel room G.01 be sealed, bricked up or otherwise enclosed, it must cease to be used as a hotel room.

(b) Windows and openings to the western boundary of the site may be blocked in future by the construction of a building abutting, adjoining or adjacent to those windows and openings.

(c) A positive covenant is to be registered on the Titles and is to be created appurtenant to Council, containing terms reasonably required by Council and will be drafted by Council's solicitor at the cost of the applicant, in accordance with the City's Fees and Charges. Evidence of the registration of the positive covenant is to be submitted to and acknowledged by Council prior to the issue of any Construction Certificate.

**Reason**

To ensure the constructed development does not inhibit the future redevelopment of adjoining sites.

**(50) ARCHIVAL DOCUMENTATION (MEASURED DRAWINGS)**

The archival recording of the subject heritage item must include and a laser point survey of the entire building and the ceilings, as well as accurate measured drawings of the following:

(a) The building and the site as a whole including:

(i) Location Plan

(ii) Site Plan (1:500 or 1:200)

(iii) Floor Plan/s (1:100 or 1:50)

(iv) Roof Plan/s (1:100 or 1:50)

(v) Elevations and Sections (1:100 or 1:50)

(b) Components of the building including ceilings, balustrades, joinery details, shop fronts, timber catwalks, roof structure, ceiling structure, other significant details such as rainwater heads and indicate 1:10 or 1:5 scale.

Measured drawings must be cross-referenced to each other, clearly titled, indicate scale, orientation and date of execution. The drawings can also be annotated or hatched to reveal more about the heritage significance of the site or object (e.g. to differentiate between dates of construction, materials and finishes and vegetation types). For further guidelines, refer to the NSW Heritage Division publication titled 'How to prepare Archival Records of Heritage Items'.

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

**Reason**

To ensure appropriate archival documentation of the building.

**(51) BUILDING WORKS TO COMPLY WITH NATIONAL CONSTRUCTION CODE – HERITAGE BUILDINGS**

Any building works required to ensure compliance with the NCC (previously known as 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.

**(52) CONSTRUCTION AND PROTECTION MANAGEMENT PLAN - HERITAGE LISTED BUILDINGS**

(a) The proposed works must be carried out in a manner that minimises potential damage to the significant fabric of the existing buildings which are listed as Heritage Items in Sydney Local Environmental Plan 2012.

(b) Similarly, the proposed works must avoid detrimental impacts upon adjacent buildings which are also listed as Heritage Items in Sydney Local Environmental Plan 2012.

(c) The fabric and features of the heritage listed buildings must be properly protected throughout the duration of the works. The buildings must be suitably protected and stabilized during the construction process including from any construction waste, dust, damp, water or liquid runoff, air borne particles, sprayed substances, vibration or structural disturbance or damage.

(d) The works must be fully supervised by the Contractor at all times and all personnel must be fully inducted as to the requirements of the project to avoid any accidental loss or damage and to ensure an appropriate quality of workmanship.

(e) Details of the protection measures proposed throughout the duration of the works, and how any potential detrimental impacts arising out of the works must be avoided, must be specified in the construction and protection management plan.

(f) The details must include, but are not limited to, the following:

(i) Induction of contractors and subcontractors as to the detail requirements of the project.

(ii) Weather protection, security, temporary fire control and fire warning systems, storage of flammable materials on site, and control measures during processes that create dust, utilise liquids or sprays such as the pouring of concrete, application of fire rating, painting, and cleaning processes.

(iii) A geotechnical report detailing the investigation of the depth of the existing footings of the buildings, and addressing details of lateral ground movement, advice on the suitability of structural engineer's proposals for underpinning or other support to footings adjacent to the work zone.

(iv) Reporting and certification from a practicing structural engineer experienced in dealing with heritage buildings explaining how the buildings must be supported and stabilised throughout the duration of the works including through processes involving demolition, temporary

loading, temporary openings. The report is to provide details of any protective intervention, retrofitting, temporary bracing and propping needed, and advice related to demolition techniques, use of equipment to control vibrations, and recommend a cycle of regular inspections. The report is also to include details of how all openings must be cut including into existing footings, rock, or masonry walls which must be initially saw cut to minimise vibrations.

(v) Details of temporary hydraulic drainage works to ensure that all water both in ground and above ground is channelled to the street and that no such water is channelled into the property.

(vi) Details of progressive cleaning processes throughout the duration of the works.

(vii) Protection methodologies detailing how vulnerable components such as glazing, wall and floor tiling, terrazzo, floorboards, ceilings, timber structural components and internal and external joinery will be protected throughout the duration of the works from accidental damage, loss, ingress of liquids or airborne particles, or from vibrations.

(viii) A list of all heritage components to be temporarily dismantled or displaced by the works, recording and methodologies for dismantling procedures and details of the proposed storage of these components, whether on site or offsite.

(g) The above construction and protection management plan must be submitted for approval by Council's Area Planning Manager prior to the issue of the any Construction Certificate.

**(53) HERITAGE CONSERVATION WORKS**

(a) Prior to the issue of the Construction Certificate, a schedule of conservation works to be undertaken concurrent with the works must be submitted to Council's Director City Planning Development & Transport for approval.

(b) The schedule is to detail the conservation of all fabric identified as having heritage significance including but not limited to fabric of exceptional, high and moderate significance.

(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 must incorporate any structural and/or building services design for the building.

(d) The proposed works are to be carried out in a manner that minimises demolition, alterations and new penetrations/fixings to the significant fabric of the existing building.

(e) All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 2013. Appropriately qualified contractors and tradespersons are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works within the heritage building.

(f) INSPECTION AND APPROVAL: The conservation works are to be progressively inspected by and be implemented to the satisfaction of Council's Heritage Specialist 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.

**(54) HERITAGE INTERPRETATION PLAN**

The Heritage Interpretation Strategy submitted with the development application is not approved. A revised Heritage Interpretation Strategy must be submitted which includes external, highly prominent locations along Orwell Lane and Orwell Street for heritage interpretation that also can serve as public art.

(a) An interpretation plan for the subject heritage item, and Orwell House archaeological features must be submitted to and approved by Council's Director City Planning Development & Transport 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 heritage item and Orwell House archaeological features 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. Locations must be external, highly visible and publicly accessible.

(d) Prior to an Occupation Certificate being issued the approved interpretation plan must be implemented to the satisfaction of Council's Area Planning Manager.

**Reason**

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

**(55) PHOTOGRAPHIC ARCHIVAL DOCUMENTATION (MAJOR WORKS)**

Prior to a Construction Certificate being issued, an archival photographic recording of the Orwell House footings and the subject heritage item are to be prepared to Council's satisfaction. The recording is to be in digital form, prepared in accordance with the NSW Heritage Division of the Department of Environment and Heritage guidelines titled "Photographic Recording of Heritage Items using Film or Digital Capture". One copy of the record is to be submitted to Council to be lodged with Council's Archives.

This copy to be lodged with Council is in addition to that required by the Heritage Division of the Department of Environment and Heritage of NSW under the terms of the Conditions of Consent in Schedule 3.

Procedure

For buildings or structures with heritage significance, the archival documentation, and the number and type of selected enlarged photographs required will be determined by the significance and quality of the building or structure. For a scope of work, refer to Council's Heritage Specialist to determine the particular architectural/design features of the building/site that may need to be recorded.

For buildings or structures with no heritage significance the archival documentation requirements are less comprehensive and may just be limited to contextual and exterior photographs only. However, this will depend upon the type, complexity and significance of the building, and must be confirmed with Council's Area Planning Manager.

Because significant fabric may remain concealed and only be exposed during construction works, the archival recording is to be undertaken in stages, prior to the removal of any significant building fabric or furnishings from the site, during the removal of fabric on site that exposes significant building fabric or furnishings, and after work has been completed on site, as considered appropriate by the conservation architect commissioned for the project, and submitted as two parts as follows.

(a) The first submission of the archival recording of significant building fabric or furnishings is to be prior to the removal of any significant building fabric or furnishings from the site, and must be submitted to and approved by Council prior to the commencement of any work on site and prior to a Construction Certificate being issued.

(b) The second submission of the archival recording is of significant building fabric or furnishings that is exposed during demolition or construction and after work has been completed on site and must be submitted to Council prior to any Occupation Certificate being issued.

The form of recording is to be a photographic documentation of the site and its context, and the exteriors and interiors of the existing building(s) photographed, where appropriate, using a camera/lens capable of 'perspective correction'.

(c) For each of the two submissions listed above in (a) and (b), the digital form of the recording is to be as follows:

    (i) The Development Application number and the Condition of Consent number must be noted.

    (ii) Include a summary report detailing the project description, date and authorship of the photographic record, method of documentation and limitations of the photographic record.

    (iii) 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.

    (iv) 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.

(v) The report can be submitted on a USB, or digital file transfer in PDF/A format (created directly from the digital original), with a digital catalogue of images with the following data for each location, image subject/description and date.

**Reason**

To ensure appropriate archival documentation of the building.

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

Stone, bricks, timber structure and decorative architectural elements to be demolished, which include balustrade, windows and doors must be salvaged and where possible reused on the project.

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

The four existing southern ground level windows along Orwell Street to be removed must be salvaged and stored on site for reuse as replacements for other windows.

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

**Reason**

To ensure the salvaging and reuse of traditional building materials.

**(57) SITES IN THE VICINITY OF A HERITAGE ITEM – MAJOR DEVELOPMENT**

(a) A protection strategy for the duration of the construction works, is to be submitted to and approved by Council's Area Planning Manager prior to the issue of any Construction Certificate. The Strategy must detail how the proposed works will ensure that the buildings at 26 Orwell Street, 32-34 Orwell Street, 1 Orwell Lane, 23, 25 and 27 Hughes Street, 101-103 and 113-115 Macleay Street are to be suitably protected and stabilized during the construction process including from any construction waste, dust, damp, water runoff, vibration or structural disturbance or damage.

(b) Additionally the protection strategy is to include:

(i) Details of temporary hydraulic drainage works to ensure that all water both in ground and above ground is channelled to the street and that no such water is channelled onto the adjacent property fabric or interiors.

(ii) Construction debris on neighbouring properties, in drainage lines or in cavities between the boundary walls of the adjacent buildings, is to be removed progressively as the works progress.

(iii) A geotechnical report detailing the investigation of the location and depth of footings of the adjacent buildings. The report must address details of lateral ground movement, advice of any additional boundary offsets that may be required as a result of the location of footings and on the suitability of structural engineer's proposals for underpinning or other support to adjacent footings.

**Reason**

To ensure the protection of adjacent/nearby heritage items.

**(58) USE OF HERITAGE CONSULTANT - MAJOR DEVELOPMENT**

(a) An experienced heritage consultant is to be commissioned to work with the consultant team throughout the design development, contract documentation and construction stages of the project. The conservation architect 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 must be provided with full access to the site and authorised by the applicant to respond directly to Council staff where information or clarification is required regarding the resolution of heritage issues throughout the project.

(b) Evidence and details of the above commission on the above terms are to be provided to Council prior to the issue of any Construction Certificate or commencement of work on site whichever is the earlier.

(c) Throughout the documentation and construction stages of the approved works the experienced heritage consultant is to:

(i) Undertake site inspections of not less than fortnightly intervals.

(ii) Report to Council’s heritage specialist on a regular basis throughout the project.

(iii) Arrange and undertake inspections with Council’s heritage specialist of not less than monthly intervals.

(iv) Progressively compile a report that includes the following:

a. A diary of site inspections,

b. Photographs of the works being undertaken at each visit,

c. Details of heritage advice and decisions arising out of each inspection,

d. An assessment of the heritage impact of all decisions made, throughout the duration of the works,

e. Any further physical evidence uncovered during the works.

This report must be progressively submitted Council's Area Planning Manager for ongoing approval at not less than two monthly intervals.

(v) Compile a final report, including the diary, verifying how the heritage conditions have been satisfied, and the works completed in accordance with the Conservation Management Plan.

(d) The builder is to prepare Heritage Work Methodologies for works associated with heritage fabric for approval by the experienced heritage consultant prior to those works proceeding, as recommended in the Heritage Impact Statement.

(e) Upon completion of the works, the final report is to be submitted for approval by Council's Area Planning Manager 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.

**(59) 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 at the following link:

www.cityofsydney.nsw.gov.au

**Reason**

To ensure water systems comply with relevant standards.

**(60) 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 Pulse White Noise Acoustics dated 7 September 2023 ref 210050 Rev 11, titled Metro Theatre Hotel, Council Ref: 2023/549795 must be implemented in the development prior to the commencement of its use.

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

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

*Note: Suitably Qualified Acoustic Consultant* means a consultant who possesses the qualifications to 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.

**(61) DEMOLITION, EXCAVATION AND CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN**

A site-specific noise and vibration 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 must 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 7.00am 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 ($L_{A90,\ 15\ minute}$) must 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.

(i) Outlining vibration monitoring during the demolition and construction phases, including that the interior of the Subject Site, and all neighbours within two building sites of the Subject Site, are to be monitored by both vibration and survey mark monitoring.

**Reason**

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

**(62) CONSTRUCTION AND FITOUT OF FOOD PREMISES**

The construction, fit-out and finishes of the food premises must comply with Standard 3.2.3 of the Australian and New Zealand Food Standards Code under the *Food Act 2003* and AS 4674 – 2004 Design, Construction and Fit-out of Food Premises.

Note: Copies of AS 4674-2004 may be obtained from the Standards Australia Customer Service on telephone 1300 65 46 46 or by visiting the website www.standards.com.au.

Copies of the Food Standards Code (Australia) may be obtained by contacting the Food Standards Australia and New Zealand Authority on telephone (02) 6271 2222, email info@foodstandards.gov.au or by visiting the website www.foodstandards.gov.au

**Reason**

To ensure the construction, fitout and finishes of the food premises comply with relevant standards.

**(63) COOLROOMS**

Coolrooms, refrigerated chambers and strong-rooms must be constructed in accordance with G 1.2 of the *National Construction Code (previously known as Building Code of Australia),* and:(a) The floor of the coolrooms must be graded to the door and a floor trapped waste outlet must be located outside the coolrooms as near as possible to the door opening.

(b) All proposed shelving in the coolrooms must be free-standing, constructed of galvanised steel angle section or other approved material with the lowest shelf at least 150mm clear of the floor.

(c) The floor of the coolrooms must be constructed of impermeable concrete or coated, topped or otherwise finished with an impervious material to a smooth even surface and coved at the intersections with the walls to a minimum radius of 25mm.

(d) Must be fitted with a door that can be opened at all times from inside without a key.

(e) An approved audible alarm device must be located outside the coolrooms but controllable only from within the coolrooms and must be able to achieve a sound pressure level outside the chamber or coolrooms of 90 dB(A) when measured 3 metres from a sounding device.

**Reason**

To ensure coolrooms are constructed appropriately in accordance with relevant standards.

**(64) FOOD PREMISES – DETAILED PLANS**

(a) Detailed and scaled plans of all kitchen, bar, food preparation, waste and storage areas, food handler toilets and all areas associated with the food business must be prepared in accordance with the *Australia New Zealand Food Standards Code – 3.2.3 – Food Premises and Equipment* under the *Food Act 2003* and *AS 4674 - Design, Construction and Fit-out of Food Premises*.

(b) Prior to the issue of a Construction Certificate the plans required by (a) of this condition must be submitted to and approved in writing by the Accredited Certifier.

**Reason**

To ensure all areas associated with the food business comply with relevant standards.

**(65) GREASE AND LIQUID WASTE TRAPS**

(a) A grease trap as required by Sydney Water must be installed in accordance with the relevant Sydney Water requirements.

(b) Prior to the issue of a Construction Certificate, plans and details are to be submitted to and approved by the Principal Certifier showing the following:

(c) The grease trap is not located in any kitchen, food preparation or food storage areas;

(i) The grease trap is constructed and installed in a location which allows it to be easily and effectively cleaned and emptied; and

(ii) The grease trap is constructed and located as not to encourage the harbourage of pests and be effectively pest proofed.

Note: In-sink and in-floor waste bucket traps must be installed in all sinks and floor wastes in all commercial kitchens and food preparation areas. The installation of any grease traps and treatment equipment must be carried out by a suitably qualified and licensed plumber in accordance with the *Plumbing Code of Australia*.

**Reason**

To ensure grease and liquid waste traps are installed in accordance with relevant requirements.

**(66) PERSONAL LOCKERS**

Clothing lockers or change rooms for staff must be provided in the premises or a dedicated, separate and isolated space for personal items must be provided in a separate location to the food handling and storage areas, in accordance with *AS4674 - Design, Construction and Fit out of Food Premises*.

**Reason**

To ensure appropriate personal lockers are provided for staff.

**(67) SANITARY FACILITIES – FOOD PREMISES**

The sanitary facilities must be separated from all food handling areas via an airlock, self-closing door or mechanical ventilation in accordance with the provisions of the *National Construction Code (previously known as Building Code of Australia)*, Part F 3.1, 4.8 and 4.9.

**Reason**

To ensure sanitary facilities comply with relevant standards to protect food handling areas.

**(68) TOILETS FOR FOOD HANDLERS**

(a) Adequate toilet facilities must be available for food handlers working for the food business. Toilets and associated facilities must be provided in accordance with *AS4674 – Design, Construction and Fit-out of Food Premises* and the *Australia New Zealand Food Standards Code, 3.2.3 - Food Premises and Equipment.*

(b) Details of the location of toilets which are provided exclusively for the use of food handlers and staff working at the business must be submitted for the

approval of the Accredited Certifier prior to the issue of a Construction Certificate.

(c) The toilet(s) must be provided with a hand wash basin, with hot and cold running water mixed through a common spout, hand wash soap, hygienic hand drying facilities and hands-free taps.

**Reason**

To ensure food handlers have access to adequate toilet facilities.

**(69) WASTE STORAGE AREA – FOOD PREMISES**

(a) To ensure the adequate storage and collection of waste from the food premises, all garbage and recyclable materials emanating from the premises must be stored in a designated waste storage area. The waste storage area must be designed and constructed in accordance with *AS 4674 – Design, Construction and Fit-out of Food Premises, Australia New Zealand Food Standards Code 3.2.3 – Food Premises and Equipment* and comply with the *Council Policy for Waste Minimisation in New Developments*, and must be:

(i) Provided with a hose tap connected to the water supply.

(ii) Paved with impervious floor materials.

(iii) Coved at the intersection of the floor and walls.

(iv) Graded and drained to a waste disposal system in accordance with the requirements of the relevant regulatory authority (Sydney Water).

(v) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour or air pollution as defined by the *Protection of the Environment Operations Act, 1997* or a nuisance.

(vi) Provided with the appropriate number and size of bins adequate for the storage of waste generated by the business, including recycling.

(vii) Appropriately managed to Council's satisfaction so that it does not attract pests or create litter.

Note: Fitted with appropriate interventions to meet fire safety standards in accordance with the *National Construction Code (previously known as Building Code of Australia)*.

(b) Detailed plans and specifications for the construction of the waste storage area must be submitted to and approved by the Accredited Certifier prior to the issue of the Construction Certificate and must be constructed in accordance with such plans and specifications prior to the issuance of any Occupation Certificate.

**Reason**

To ensure the adequate storage and collection of waste from the food premises.

**(70) SITE AUDIT STATEMENT**

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

hbapplications@cityofsydney.nsw.gov.au

The Site Audit Statement must confirm that the site has been remediated in accordance with the approved Remedial Action Plan and clearly state that site is suitable for the proposed use.

(a) In circumstances where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council, these must be reviewed and must be approved by the Council's Health and Building Unit in writing through the City's 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 Section 4.55 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's Area Planning Manager in accordance with this condition.

**Reason**

To ensure that the site is appropriately remediated.

**(71) DESIGN FOR ENVIRONMENTAL PERFORMANCE**

(a) Prior to the issue of a Construction Certificate, the Design for Environmental Performance Report prepared by Grace Hunt, Central Element dated 11 April 2023 (Council Ref: 2023/234200) must be amended as follows:

(i) Section 4 – Energy Efficiency and Greenhouse Gas Abatement

a. Section J JV3 report is to be updated and clearly identify how the development achieves its self-proposed target "Exceeding NCC 2019 Section J compliance by 10%, meaning that the development's operational carbon footprint is reduced further than is required by legislation". This is to be reflected in emissions or energy calculations when compared to a standard reference building.

(ii) Section 5 – Passive Design for Thermal Performance – Building Envelope Design

a. Schedules outlining material construction of walls, windows, floors, ceilings, roofs and other building elements forming the

conditioned envelope are to be provided in updated architectural plan set. Calculation of Total R-Value and Thermal U-Value are to be in line NCC Section J and AS/NZS 4859.2. Calculation of insulation totals are to demonstrate how total R-Values assumed in modelling have been achieved, with full consideration of thermal bridging and any thermal breaks or other mitigating elements.

(iii) Section 6 – On site Renewable Energy Generation and Storage

a. Architectural plans are to include clear markups and annotations around area requirements and output capacity for PV systems. To maintain consistency with sustainability reporting in the development application; annotations are required to clearly identify a photovoltaic system, totalling a peak capacity in line with previously reported 40-45 kWp.

(b) Prior to the issue of any Construction Certificate, the Principal Certifier must be satisfied that those matters listed in the following sections of the approved Design for Environmental Performance report are incorporated into the relevant construction plans and accompanying documentation:

(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

(c) Changes to any commitments including those required by part (a) of this condition and as listed in the approved Design for Environmental Performance report must be submitted to and approved by Council's Area Planning Manager or Area Coordinator prior to the issue of any relevant Construction Certificate.

**Reason**

To ensure the environmental performance of the development.

**(72) INSTALLATION OF DUAL-FLUSH TOILETS**

All toilets installed within the development must be of water efficient dual-flush or other water-saving capacity with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted for the approval of the Accredited Certifier, prior to a Construction Certificate being issued.

**Reason**

To ensure the provision of water efficient toilets.

**(73) INSTALLATION OF WATER EFFICIENT TAPS**

All taps and shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details are to be submitted for the approval of the Principal Certifier, prior to any Occupation Certificate being issued.

**Reason**

To ensure the provision of water efficient taps.

**(74) INSTALLATION OF WATER EFFICIENT URINALS**

New urinal suites, urinals and urinal flushing control mechanisms must use waterless technology. Where it is submitted that this is not feasible, it must be demonstrated that products have been selected with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). Systems must include "smart controls" to reduce unnecessary flushing. Continuous flushing systems are not approved. Details are to be submitted to and approved by the Accredited Certifier, prior to a Construction Certificate being issued.

**Reason**

To ensure the provision of water efficient urinals.

**(75) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL**

(a) A Waste and Recycling Management Plan, which meets the requirements as set out in Council's *Guidelines for Waste Management in New Developments 2018*, is to be approved by the Principal Certifier prior to a Construction Certificate being issued.

(b) 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

(c) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must ensure that waste handling works have been completed in accordance with: the Waste and Recycling Management Plan; other relevant development consent conditions; and Council's *Guidelines for Waste Management in New Developments 2018*.

**Reason**

To ensure that waste and recycling is appropriately managed.

**(76) STREET TREES AND DETAILED DESIGN APPLICATION**

(a) All detailed architectural, building, engineering (structural, stormwater and drainage services) and landscape documentation submitted for the Construction Certificate shall clearly show on all drawings the retention of street trees as required by these conditions of consent, the position of their trunks, full diameter of their canopies, Structural Root Zones (SRZs) and Tree Protection Zones (TPZs).

(b) Any design elements (awnings, street furniture, footpath upgrades etc) within the public domain must ensure appropriate setbacks are provided from the street trees to allow maturity of the tree to be achieved.

**Reason**

To ensure that existing street trees are protected.

**(77) 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 to and approved 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.

**(78) 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 or Area 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.

**(79) PUBLIC DOMAIN LEVELS AND GRADIENTS - MAJOR**

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

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

Note: 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.

**(80) 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) 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 may be required prior to issue of any Occupation Certificate.

**Reason**

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

**(81) STORMWATER ON-SITE DETENTION**

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

Where an OSD is not required by Sydney Water one may still be required by the City.

**Reason**

To ensure the requirements of Sydney Water are complied with.

**(82) STORMWATER QUALITY ASSESSMENT**

City of Sydney (City) has adopted MUSIC-link for assessing Water Sensitive Urban Design (WSUD) compliance for developments. Prior to the issue of any Construction Certificate other than demolition, a stormwater quality assessment for the proposed development, prepared by a suitably qualified practicing civil engineer (NER), and complying with the City's specific modelling parameters as adopted in MUSIC-link, must be submitted for review and approval. A certificate and/or report from MUSIC-link and the electronic copy of the MUSIC Model must accompany the assessment report. The MUSIC-Link report must be complete, show no failing parameters, or provide a valid explanation for failures.

The report must include a response to all stormwater quality improvement devices structural integrity, treatment train and their treatment properties demonstrating compliance with the MUSIC link reports.

**Reason**

To ensure appropriate stormwater quality on the site.

**(83) FLOOD PLANNING LEVELS**

The development must be constructed to comply with the recommended flood planning levels indicated in Figure 01 of the report titled Basement Driveway Flood Protection, Metro Minerva Theatre 211457CAAB prepared by TTW dated 3 May 2023.

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

**Reason**

To ensure the development complies with the recommended flood planning levels.

**(84) 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 Orwell Street and Orwell Lane and shall be designed to include the following requirements:

(a) Orwell Street (Between 20 Orwell Street to Macleay Street):

(i) Provide lighting plan/simulation which shows existing lighting levels achieved.

(ii) If applicable, upgrade Ausgrid street lighting using network standard LED luminaires.

(iii) Lighting compliance with requirements of AS1158 under Category PR1 on the roadway and PP1 (+ minimum 2 lux vertical illuminance) on the footway (both sides) is required.

(b) Orwell Lane (along the development site):

(i) City of Sydney standard wall mount lights shall be supplied and installed. Electricity shall be supplied from nearest City of Sydney MSB in the vicinity.

(ii) Provide a discovery and investigation report on the City of Sydney MSB from a certified electrical contractor.

(iii) The report should include power calculations as well as any required upgrades on MSB.

(iv) Any upgrades that are necessary must be provided by the developer. (Developer must confirm location and final supply arrangement with the City prior to construction).

(v) Lighting compliance of AS1158 Category PR1 is required.

(vi) Installation must be accessible for maintenance and upgrade by City of Sydney-authorised technicians/contractors along the entire length. All cabling shall be installed on the building surface within galvanised steel conduits.

(vii) Establish an access easement in favour of City of Sydney for ongoing maintenance and upgrade of wall-mounted council lighting.

(viii) Provide electrical reticulation plan and design certificate.

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.

**(85) NEW CONTINUOUS FOOTWAY TREATMENT TO ORWELL LANE**

A new continuous footway treatment is required along Orwell Street, crossing Orwell Lane, generally in accordance with typical detail C2.8.1. Preparation of the detailed design and construction documentation for the footway treatment must include all necessary liaison with, and requirements of, all relevant public utility authorities, Roads and Maritime Services, the City of Sydney, the Local Pedestrian Cycling and Traffic Calming Committee and its nominated consultants in order to achieve design approvals and construction compliance.

Submission of the design package shall be prepared based on the requirements outlined in City's *Public Domain Manual* and will be submitted for approval with the Public Domain Plan Detailed Documentation for Construction package. All engineering plans and calculations shall be checked, signed and certified by a suitably qualified practicing professional engineer and included in the report. The design package, inclusive of construction documentation, and report shall be submitted to and approved by City's Public Domain Manager prior to the construction of the footway treatment.

**Reason**

To enhance pedestrian safety and to ensure the new footway treatment complies with Council's policies, standards and specifications and those of all other relevant authorities.

**(86) 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.

**(87) PUBLIC DOMAIN DAMAGE BOND**

(a) A Public Domain Damage Deposit calculated on the basis of 128 square metres of asphalt site frontage 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.

**(88) PROTECTION OF STONE KERBS**

(a) The existing stone kerbs on the Orwell Street and Orwell Lane frontages of the site are to be retained and properly protected during demolition, excavation and construction works.

(b) To avoid damage to stone kerbs during excavation and construction works for the development, temporary removal and storage of the stone kerbs may be approved by Council. Removed, serviceable stone kerbs (i.e. those that are in good condition as agreed by Council officers) must be re-installed in accordance with the City of Sydney's standard details and specifications after the construction works have been completed. A temporary concrete kerb will need to be constructed to retain the footpath until the stone kerbs can be reinstalled.

(c) Note the following:

(i) All costs associated with the works are to be borne by the developer.

(ii) Damaged kerbs are to be replaced to match existing to Council's satisfaction or as otherwise advised by Council officers.

(iii) Where new vehicle crossings or temporary crossings are to be constructed to access the property, the affected kerb stones should be salvaged and reused wherever possible.

(iv) All new driveway laybacks and kerbs are to be constructed with stone kerbs to match existing stones or as specified by City officers.

(v) Council approval is required before kerbs are removed.

(vi) Council approval is required prior to the cutting of existing stone kerbs for stormwater kerb outlets.

(vii) Stone kerbs and gutters may be bonded in accordance with the City of Sydney's adopted Schedule of Fees and Charges. If so, this will be included with the Public Domain Damage Bond.

**Reason**

To ensure the protection of stone kerbs.

**(89) UTILITY SERVICES**

To ensure that utility authorities are advised of the development:

(a) Prior to the issue of a Construction Certificate a survey is to be carried out of all utility services within and adjacent to the site including relevant information from utility authorities and excavation if necessary, to determine the position and level of services.

(b) Prior to the commencement of work the applicant is to obtain written approval from the utility authorities (e.g. Energy Australia, Sydney Water, and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

**Reason**

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

**(90) 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 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.

**(91) INACCESSIBLE GREEN ROOFS**

(a) A detailed green roof design including plans and details drawn to scale, and technical specification, by a qualified landscape architect or landscape designer, must be submitted to and approved by Council's Area Planning Manager prior to the issue of a Construction Certificate. 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 the issue of an Occupation Certificate, structural and waterproofing certifications for the green roof are to be submitted to and approved by the Principal Certifying Authority.

(c) All landscaping in the approved plan must be complete prior to the issue of an Occupation Certificate.

(d) Inaccessible green roofs must remain inaccessible for the lifetime of the property.

**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.

## PART C – BEFORE THE COMMENCEMENT OF BUILDING WORK

### (92) APPLICATION FOR HOARDINGS AND SCAFFOLDING INSTALLED ON OR ABOVE A PUBLIC ROAD AND OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD

(a) A separate application under Section 68 of the *Local Government Act, 1993* and Section 138 of the *Roads Act, 1993* is to be made to Council to erect a hoarding and/or scaffolding (temporary structures) on or above a public road (footway and/or roadway).

(b) Where an approval (Permit) is granted allowing the placement of temporary structures on or above a public road the structures must comply fully with Council's *Hoarding and Scaffolding Policy; Guidelines for Hoardings and Scaffolding;* and the conditions of approval (Permit) granted including:

(i) maintaining a current and valid approval for the full duration that the temporary structure/s is in place;

(ii) maintaining temporary structure/s in a structurally sound and stable condition for the full duration of installation (Clause 2.11.1);

(iii) bill posters and graffiti being removed within 24 hours of their placement (Clause 2.11.2);

(iv) maintaining temporary structures and the public place adjoining the work site in a clean and tidy condition including repainting and/or repair of graphics (Clauses 2.11.1, 2.11.4, 2.14.1 and 3.9.3);

(v) maintaining a watertight deck (Type B hoardings) to prevent liquids including rainwater, falling onto the footway/roadway surfaces (Clauses 3.9.1 and 3.9.4);

(vi) approved site sheds on the decks of a Type B hoarding being fully screened from the public place (Clause 3.9.5);

(vii) material and equipment not being placed or stored on the deck of Type B hoardings, unless specifically approved by Council (Clause 3.9.4);

(viii) providing and maintaining operational artificial lighting systems under Type B hoardings including at high-bay truck entry points (Clause 3.9.9); and

(ix) ensuring all required signage, 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.

**(93) 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.

**(94) DEMOLITION, EXCAVATION AND CONSTRUCTION MANAGEMENT**

(a) Prior to the commencement of demolition and/or excavation work the following details must be submitted to and be approved by the Principal Certifier:

(i) Plans and elevations showing distances of the subject building from the location of adjoining and common/party walls, and (where applicable) the proposed method of facade retention.

(ii) A Demolition Work Method Statement prepared by a licensed demolisher who is registered with the Work Cover Authority. (The demolition by induced collapse, the use of explosives or on-site burning is not permitted.)

(iii) An Excavation Work Method Statement prepared by an appropriately qualified person.

(iv) A Waste and Recycling Management Plan – Demolition and Construction for the demolition and or excavation of the proposed development. The plan is to include details of materials that will be excavated and their proposed destination or reuse.

(v) Plans and elevations showing the location, construction and installation of temporary site fencing and any temporary structures used in connection with the construction of the development.

Note: Temporary structures, including hoardings and scaffolding, proposed for erection on City-owned and controlled land (footways and roadways), must comply with Council's *Guidelines for Hoardings and Scaffolding* and be approved by Council under the provisions of the *Local Government Act, 1993* and the *Roads Act, 1993* prior to installation.

(b) Such statements must, where applicable, be in compliance with AS2601-2001 Demolition of Structures, the *Work, Health and Safety Act, 2011* and Regulation; Council's *Guidelines for Waste Management in New Developments 2018*, the *Waste Avoidance and Resource Recovery Act 2001*, and all other relevant acts and regulations and must include provisions for:

(i) A Materials Handling Statement for the removal of refuse from the site in accordance with the *Waste Avoidance and Resource Recovery Act, 2001*.

(ii) The name and address of the company/contractor undertaking demolition/excavation works.

(iii) The name and address of the company/contractor undertaking off site remediation/disposal of excavated materials.

(iv) The name and address of the transport contractor.

(v) The type and quantity of material to be removed from site.

(vi) Location and method of waste disposal and recycling.

(vii) Proposed truck routes, in accordance with this development consent.

(viii) Procedures to be adopted for the prevention of loose or contaminated material, spoil, dust and litter from being deposited onto the public way from trucks and associated equipment and the proposed method of cleaning surrounding roadways from such deposits. (Note: With regard to demolition of buildings, dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site).

(ix) Measures to control noise emissions from the site.

(x) Measures to suppress odours.

(xi) Enclosing and making the site safe.

(xii) Induction training for on-site personnel.

(xiii) Written confirmation that an appropriately qualified Occupational Hygiene Consultant has inspected the building/site for asbestos, contamination and other hazardous materials, in accordance with the procedures acceptable to SafeWork NSW.

(xiv) An Asbestos and Hazardous Materials Clearance Certificate by a person approved by the SafeWork NSW.

(xv) Disconnection of utilities.

(xvi) Fire Fighting. (Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed).

(xvii) Access and egress. (Demolition and excavation activity must not cause damage to or adversely affect the safe access and egress of the subject building or any adjacent buildings).

(xviii) Waterproofing of any exposed surfaces of adjoining buildings.

(xix) Control of water pollution and leachate and cleaning of vehicles tyres (proposals must be in accordance with the *Protection of the Environmental Operations Act, 1997*).

(xx) Working hours, in accordance with this development consent.

(xxi) Any SafeWork NSW requirements.

(c) The approved work method statements and a waste management plan as required by this condition must be implemented in full during the period of construction.

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

**Reason**

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

**(95) GEOTECHNICAL INVESTIGATION REPORT**

The recommendations of the approved Final Geotechnical Investigation report submitted to satisfy the deferred commencement condition are to be carried out prior to and during construction.

**Reason**

To ensure that the recommendations of the Geotechnical report and implemented.

**(96) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION**

(a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of the subject site 28-30 Orwell Street, and neighbouring sites 24 Orwell Street, 26 Orwell Street, 32-34 Orwell Street, 1 Orwell Lane, 21 Hughes Street, 23 Hughes Street, 25 Hughes Street, 27 Hughes Street, 101-103 Macleay Street, 113-115 Macleay 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 with heritage experience prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs of archival quality must be given to the above property owners, and a copy lodged with the Accredited Certifier and the Council prior to the issue of a Construction Certificate.

UPON COMPLETION OF EXCAVATION/DEMOLITION

(b) A second Dilapidation Report/s, including a photographic survey must then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report/s, together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Principal Certifier and the Council prior to the issue of any Occupation Certificate.

Any damage to buildings, structures, lawns, trees, sheds, gardens and the like must be fully rectified by the applicant or owner, at no cost to the affected property owner.

Note: Prior to the commencement of the building surveys, the applicant/owner must advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information must be submitted to Council.

**Reason**

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

**(97) EROSION AND SEDIMENT CONTROL**

Prior to the commencement of demolition/excavation/construction work, an Erosion and Sediment Control Plan (ESCP) must be submitted to and be approved by the Principal Certifier. The ESCP must:

(a) Conform to the specifications and standards contained in Managing Urban Stormwater: Soils and Construction (Landcom, 2004); the Guidelines for Erosion and Sediment Control on Building Sites (City of Sydney, 2004); and the *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.

**(98) ROAD OPENING APPLICATION**

A separate road opening application under Sections 138/139 of the *Roads Act, 1993* must be submitted to and approved by Council prior to the commencement of any:

(a) Excavation in or disturbance of a public way, or

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

**Reason**

To ensure that approval under the Roads Act is obtained.

**(99) 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.

**(100) 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 Area Planning Manager. The report must explain how the retained building elements, such as building facades and ceilings 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.

**(101) DECOMMISSIONING OF UNDERGROUND PETROLEUM STORAGE TANKS**

The removal of underground petroleum 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;

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

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

(c) *AS 1940 –2004: Storage and handling of flammable and combustible liquids*,

(d) *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.

**(102) TRAFFIC WORKS**

Any proposals for alterations to the public road, involving traffic and parking arrangements, must be designed in accordance with RMS Technical Directives and must be referred to and agreed to by the Local Pedestrian, Cycling and Traffic Calming Committee prior to any works commencing on site.

**Reason**

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

**(103) 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.

**(104) 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

### (105) 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.

**(106) LAND REMEDIATION**

The site is to be remediated and validated in accordance with the recommendations set out within the Remedial Action Plan, prepared by EI Australia dated 6 June 2022 reference E24938.E06_Rev0.

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 and the Principal Certifier.

**Reason**

To ensure that the site is appropriately remediated.

**(107) HOURS OF WORK AND NOISE – OUTSIDE SYDNEY CENTRAL BUSINESS DISTRICT**

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.

**(108) USE OF HIGH NOISE EMISSION APPLIANCES / PLANT**

(a) The operation of high noise emission appliances, plant and/or machinery such as pile – drivers, rock breakers and hydraulic hammers and those which are not listed in Groups B, C, D, E or F of Schedule 1 of the *City of Sydney Code of Practice for Construction Hours/Noise 1992* and Australian Standard 2436-2010 *Guide to Noise Control on Construction, Maintenance and Demolition Sites* is restricted to the hours of:

(i) Monday to Friday – 8:00am to 12:00pm and 1:30pm to 4:30pm;

(ii) Saturday – 8:30am to 12:00pm; and 1:30pm to 3:30pm; and

(iii) Sunday and Public Holidays – No works.

(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.

**(109) 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.

**(110) 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 Construction Noise and Vibration Management Plan prepared in accordance with the Demolition,

Excavation and Construction Noise and Vibration Management Plan condition.

**Reason**

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

**(111) CEILING MONITORING**

The condition of the existing heritage ceiling must be photographed and monitored from above and below by the appointed heritage consultant every month when demolition, excavation, and construction works are carried out.

**Reason**

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

**(112) SITE NOTICE OF PROJECTS DETAILS AND APPROVALS**

A site notice is to be prominently displayed at the boundary to each frontage of the site for the purposes of informing the public of appropriate project details and relevant approvals. The notice(s) is to satisfy all of the following requirements:

(a) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;

(b) The notice is to be durable and weatherproof and is to be displayed throughout the construction period;

(c) A copy of the first page of the development approval, building approval (including any modifications to those approvals) and any civic works approvals is to be posted alongside the notice in weatherproof casing;

(d) The approved hours of work, the Principal Certifier including contact address and certification details, the name of the site manager, the responsible managing company, its address and 24 hour contact phone number for any enquiries, including construction/noise complaint, and the estimated date of completion of the project are to be displayed on the site notice;

(e) The notice(s) is to be mounted at eye level on the perimeter hoardings and is also to state that unauthorised entry to the site is not permitted.

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

**Reason**

Prescribed condition under Clause 70 of the *Environmental Planning and Assessment Regulation, 2021*.

**(113) 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.

**(114) 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.

**(115) 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.

**(116) 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.

**(117) 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 immediately in writing.

**Reason**

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

**(118) 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.

**(119) 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 3 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.

**(120) PUBLIC DOMAIN PLAN DETAILED DOCUMENTATION FOR CONSTRUCTION**

A detailed public domain plan and all relevant documentation must be submitted to and approved by the City's Public Domain Unit prior to the construction of any public domain works. This Plan must document all works required to ensure that the public domain complies with the City of Sydney's *Public Domain Manual*, *Sydney Streets Code, Sydney Street Tree Masterplan, Sydney Lights Design Code* 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 the following link:

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

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

**Reason**

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

**(121) 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.

**(122) 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.

**(123) 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 the following link:

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.

**(124) 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.

**(125) 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.

**(126) SYDNEY WATER CERTIFICATE**

A Section 73 Compliance Certificate under the *Sydney Water Act, 1994* must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section on the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to Council or the Principal Certifier prior to any Occupation Certificate or subdivision/strata certificate being issued.

**Reason**

To ensure the requirements of Sydney Water are met.

**(127) 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.

**(128) 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.

## PART E – BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

### (129) WAYFINDING PLAN

Signage directing guests of the hotel to the lifts, foyer and exits are to be installed before the issue of any Occupation Certificate.

**Reason**

To ensure an adequate wayfinding for hotel guests.

### (130) ACCOMMODATION - REGISTRATION

Prior to the issuing of any Occupation Certificate, Council's Health and Building Unit must be advised in writing of the business name, address, owner or company name, 24 hour contact details for the site manager, and the number of occupants approved for the premises. A manager must be contactable 24 hours a day.

**Reason**

To provide Council with adequate details of the hotel use prior to operation.

### (131) 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 must 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.

**(132) 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.

**(133) RESTRICTION ON STRATA SUBDIVISION**

Any strata subdivision of the hotel to create individual lots for hotel rooms is not permitted.

**Reason**

To ensure that the individual hotel rooms are not strata subdivided.

**(134) 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.

**(135) COSTED HERITAGE ASSET MAINTENANCE PLAN**

(a) To ensure the continued protection of heritage significance of the heritage item and to guide the future maintenance on heritage fabric, a costed Heritage Asset Maintenance Plan is to be developed. The following is to apply:

(i) The Plan is to be based the NSW Heritage Division of the Department of Environment and Heritage publication: 'Preparing a maintenance plan', and is to be a guide for the effective, continuous, protective maintenance of all significant heritage fabric for a minimum period of 20 years.

(ii) The Plan is to include all fabric identified as being of heritage significance, specification notes and methodologies based on the Articles of the Australian ICOMOS Burra Charter 2013 and best conservation practise, and a list of appropriate consultants and suppliers together with the projected costing for each item of work.

(iii) The Plan is to be prepared by the Conservation Architect and is to be submitted to Council for approval prior to the issue of any Occupation Certificate.

**Reason**

To ensure the continued protection of the heritage significance of the heritage item and to guide the future maintenance of heritage fabric.

**(136) CYCLICAL MAINTENANCE PLAN**

A cyclical maintenance plan specifying frequency and methodologies to conduct building inspections and maintenance works to building elements and services (including sprinkler system and associated plumbing to avoid water damage to the ceiling) must be submitted to and approved by Council's Area Planning Manager prior to the issue of any Occupation Certificate. The maintenance plan is to be prepared by a suitably qualified heritage consultant and endorsed by the building owner.

**Reason**

To ensure appropriate ongoing maintenance of the building.

**(137) TRANSPORT ACCESS GUIDE**

A Transport Access Guide must be implemented and maintained by the operators of the premises and be made available to staff, clients, customers and visitors at all times. The following information shall be submitted to and approved by Council's Area Planning Manager prior to the issue of an Occupation Certificate.

The Transport Access Guide is to include (but not limited to) the following:

(a) A Transport Access Guide detailing sustainable transport options to access the site including public transport, cycling and walking or a combination of these modes.

(b) Information regarding lack of off-street car parking and passenger pick-up and set-down areas at the development site.

(c) Suitable nearby drop-off/pick-up locations.

(d) Identify areas where drop-off/pick-up is prohibited and instruct visitors to avoid use of these areas.

(e) Suitable nearby Taxi Zones.

(f) Public Transport options adjacent to the site.

(g) Pedestrian access to the site.

(h) Bicycle Parking and cycleway networks to the site.

(i) Communication methods by which the Transport Access Guide will be made available to staff, clients, customers and visitors.

Note: Transport Access Guide requirements are detailed in Schedule 7.7 of the Sydney Development Control Plan 2012.

**Reason**

To ensure appropriate transport planning for the site.

**(138) PICK-UP AND DROP-OFF MANAGEMENT**

A Hotel/Guest Pick-Up and Drop-off Management Plan is to be submitted to and approved by the Area Planning Manager prior to the issue of an Occupation Certificate. The Management Plan is to outline the management of all vehicles associated with guest arrivals, departures and tours and its potential impacts on surrounding streets. The Management Plan is to include the following:

(a) An outline of the quantity and frequency of visits per day, including time of day, of vehicles likely to be received for guest drop-off and pick-up and tour groups/services.

(b) Details of coach/vehicle sizes likely to be used to accommodate guest arrivals, departures and tours.

(c) Details of the valet parking for VIP guests.

(d) Details of how guest arrivals and departures would be managed if changes to street parking restrictions are not supported.

(e) Management of guests, luggage and/or trollies to ensure the public footpath remains unobstructed for use of pedestrians.

**Reason**

To ensure appropriate transport planning.

**(139) LOADING AND SERVICE MANAGEMENT PLAN**

A Loading Management Plan demonstrating the management of all delivery and servicing activities and vehicles and its impact on surrounding streets is required to be submitted to and approved by Council's Area Planning Manager prior to the issue of an Occupation Certificate. The Loading Management Plan is to include the following:

(a) A detailed outline all delivery and servicing activities to be carried out for all uses onsite (hotel, entertainment facility, small bar, cafe).

(b) A detailed outline of vehicle types required to conduct activities in point (a) above.

(c) A detailed outline of the frequency of visits per day and/or week of vehicles outlined in point (b) above.

(d) Details of how activities and vehicles outlined in points (a), (b) and (c) above will be managed to optimise use of the onsite loading dock and minimise use of public streets for loading, parking or circulating while waiting to access on the onsite loading dock. Both inhouse consolidation and consolidation with the neighbouring sites/business to get deliveries will help to reduce traffic on road and such practice is highly encouraged.

(e) The proposed SRV loading dock must not be reserved for the hotel, or any other single tenancy, and must be available to all users within the site. A management plan, loading dock manager, loading schedule or similar must be prepared so all users are aware of their entitlements and to avoid too many deliveries being at the dock at any one time.

The approved Loading Management Plan must be provided to all tenants and external users.

**Reason**

To ensure appropriate transport planning.

**(140) 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.

**(141) 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.

**(142) 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.

**(143) 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.

**(144) CONSTRUCTED FLOOR LEVELS**

A certification report prepared by a suitably qualified practitioner engineer (NPER) must be submitted to the Principal Certifier prior to issue of any Occupation certificate stating that the development has been constructed and the required levels achieved in accordance with the recommendations of the report titled Basement Driveway Flood Protection, Metro Minerva Theatre 211457CAAB prepared by TTW dated 3 May 2023.

**Reason**

To ensure the development achieves the required floor levels.

**(145) FLOOD RISK MANAGEMENT**

Prior to the issue of any Occupation Certificate, 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.

**(146) 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.

**(147) NOTIFICATION OF CONDUCT OF FOOD BUSINESS**

(a) The use must not commence until the food business has notified Council with their food business details in accordance with the *Food Act 2003* and *The Australia New Zealand Food Standards Code – 3.2.2 – Food Safety Practices and General Requirements, Clause 4*.

(b) An Occupation Certificate must not be issued until such notification has been received by Council in accordance with Clause (a) of this condition.

Note: Registration forms are available on Council's website www.cityofsydney.nsw.gov.au.

**Reason**

To ensure Council is notified of food business details.

**(148) PRODUCTS BANNED UNDER THE BUILDING PRODUCTS (SAFETY) ACT 2017**

(a) No building products that are banned, or products that are subject to a ban if used in a particular way, under the Building Products (Safety) Act 2017 are to be used in the construction of the development approved in this development consent.

(b) Prior to the issue of any Occupation Certificate, the principal certifier is to confirm that none of the building products used on the building are subject to a building product use ban under the Building Products (Safety) Act 2017 or, if a product is only subject to a ban if used in a particular way that it is not used in any way contrary to the Building Products (Safety) Act 2017.

**Reason**

To ensure that no banned products are used in the development.

## PART F – OCCUPATION AND ONGOING USE

### (149) 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.

### (150) ENTERTAINMENT FACILITY – APPROVED USE

(a) The approved use of the part of the building shown on the drawings as 'venue' located on the ground floor, Level 1 and Level 2, is as an entertainment facility as defined by the Sydney Local Environmental Plan 2012, and is to include the provision of entertainment at all times. The consumption of food and drink must be ancillary to the provision of entertainment.

(b) The part of the building shown on the drawings as 'venue' located on the ground floor, Level 1 and Level 2, must not be used as a function centre or restaurant at any time, including at times when it is available for hire.

**Reason**

To ensure the premises operates as the approved use.

### (151) SMALL BAR – APPROVED USE

(a) The approved use of the part of the building shown on the drawings as 'speakeasy bar' located on Basement Level 1 is as a small bar as defined by the Sydney Local Environmental Plan 2012.

**Reason**

To ensure the premises operates as the approved use.

### (152) HOURS OF OPERATION – ENTERTAINMENT FACILITY

The hours of operation hours of the entertainment facility are regulated as follows:

(a) The hours of operation must be restricted to between 7.00am and 11.00pm Monday to Sunday.

(b) Notwithstanding (a) above, the use may operate between 11.00pm and 1.00am the following day, Monday to Sunday, for a trial period of one year from the date of the issue of the Occupation Certificate. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to liquor@cityofsydney.nsw.gov.au

(c) Should the operator seek to continue the extended operating hours outlined in (b) above, an application must be lodged with Council not less than 30

days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

**Reason**

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

**(153) HOURS OF OPERATION – SMALL BAR**

The hours of operation hours of the basement small bar are regulated as follows:

(a) The hours of operation must be restricted to between 10.00am and 11.00pm Monday to Sunday.

(b) Notwithstanding (a) above, the use may operate between 11.00pm and 12.00am midnight, Monday to Sunday, for a trial period of one year from the date of the issue of the Occupation Certificate. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to liquor@cityofsydney.nsw.gov.au

(c) Should the operator seek to continue the extended operating hours outlined in (b) above, an application must be lodged with Council not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

**Reason**

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

**(154) HOURS OF OPERATION – HOTEL ACCOMMODATION**

The hours of operation of the hotel accommodation are restricted to 24 hours per day Monday to Sunday.

**Reason**

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

**(155) HOURS OF OPERATION - CAFE**

The hours of operation hours of the ground floor cafe are regulated as follows:

(a) The hours of operation must be restricted to between 7.00am and 11.00pm Monday to Sunday.

(b) Notwithstanding (a) above, the use may operate between 11.00pm and 12.00am midnight, Monday to Sunday, for a trial period of one year from the date of the issue of the Occupation Certificate. Council's Health and Building Unit is to be informed in writing of the date of commencement of the trial hours. Email notification is to be sent to liquor@cityofsydney.nsw.gov.au

(c) Should the operator seek to continue the extended operating hours outlined in (b) above, an application must be lodged with Council not less than 30 days before the end of the trial period. Council's consideration of a proposed continuation and/or extension of the hours permitted by the trial will be based on, among other things, the performance of the operator in relation to the compliance with development consent conditions, any substantiated complaints received and any views expressed by the Police.

**Reason**

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

**(156) MAXIMUM CAPACITY OF PERSONS**

(a) The maximum number of persons (including staff, patrons and performers) permitted in the premises at any one time is:

(i) Entertainment Facility – 250 persons

(ii) Small Bar – 110 persons

(iii) Cafe – 30 persons

(b) The capacity for each area must not exceed the maximum numbers at any given time.

(c) The manager/licensee is responsible for ensuring the number of persons in the premises does not exceed that specified above.

(d) A sign in letters not less than 25mm in height must be fixed at the main entry point to the premises alongside the Licensee's name stating the maximum number of persons, as specified in the development consent, that are permitted in the building. Details are to be provided to the satisfaction of the Accredited Certifier prior to issue of a Construction Certificate and the Principal Certifier is to confirm compliance prior to the issue of an Occupation Certificate.

Note: Clause 73 of the *Environmental Planning and Assessment Regulation, 2021* requires a sign specifying maximum number of persons permitted in the building to be displayed in a prominent position for the following types of premises:

(i) entertainment venue,

(ii) function centre,

(iii) pub,

(iv) registered club,

(v) restaurant.

**Reason**

To ensure the premises can safely accommodate patrons, staff and performers and safeguard the amenity of the surrounding neighbourhood.

**(157) PLAN OF MANAGEMENT**

(a) The Plan of Management 'Operational and Security Plan of Management', Revision 7 prepared by Central Element dated 6 September 2023 is to be amended as follows:

(i) To ensure that it is consistent with all conditions of consent including those related to hours of operation and capacity.

(b) The amended Plan of Management is to be submitted to and approved by Council's Area Planning Manager prior to the issue of an Occupation Certificate.

(c) The use must always be operated / managed in accordance with the Plan of Management that satisfies this condition.

(d) In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

**Reason**

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

**(158) SMALL BAR ACCESS**

Access and egress from the small bar must be via the main entry to Orwell Street only, and not via the doors to Orwell Lane.

**Reason**

To ensure the pedestrian safety of patrons to the small bar.

**(159) COPIES OF CONSENTS AND MANAGEMENT PLANS**

A full and current copy of all current development consents for the operation of the licensed premises, and the Plan of Management must be kept on-site and made available to Police or Council Officers, or Special Investigator upon request.

**Reason**

To ensure all relevant approved documents are available on-site upon request.

**(160) VISITOR AND TOURIST ACCOMMODATION - USE AND OPERATION**

The use and operation of the hotel accommodation must comply with the requirements of Schedule 2 (Standards for Places of Shared Accommodation) of the *Local Government (General) Regulation, 2005* under the *Local Government Act, 1993*, the *Public Health Act, 2010* and regulations thereunder and *Sydney Development Control Plan 2012 – 4.4.8*.

**Reason**

To ensure the development operates as a tourist and visitor accommodation use.

**(161) OPERATIONAL CONDITIONS – HOTEL ACCOMMODATION**

The following operational conditions apply to the use of the hotel accommodation at all times:

(a) The maximum number of occupants permitted to stay at the premises is 126 occupants at any one time.

(b) The capacity of each bedroom must not be increased at any time.

(c) The maximum permitted length of stay for each guest is 3 months.

(d) The premises are to have a manager on-site 24-hours per day with their contact phone number made available to guests, local residents, police and local council via the website, on-site signage and/or letters.

(e) Lockable storage of a minimum of 1.2 cubic metres per room is to be provided.

**Reason**

To ensure adequate amenity for the guests of the tourist and visitor accommodation use and of surrounding residential uses.

**(162) USE OF ROOF TERRACE**

The roof terrace accessed from the stairs to Hotel Room 3.09 must only be used by guests staying in Room 3.09 and must not be used by other guests or visitors.

**Reason**

To ensure that the use of the roof terrace does not result in amenity impacts to surrounding residential uses.

**(163) SECURITY AND QUEUING**

(a) Security guards are to be provided at all times the entertainment facility is in operation at a minimum ratio of 1 security staff member to 100 patrons or part thereof.

(b) Security personnel must remain at the premises for at least 30 minutes after closing and must assist in ensuring that patrons leave quietly.

(c) All licensed security officers whilst employed at the premises are to wear clearly identifiable security attire at all times, with the word “SECURITY” clearly identifiable in bold print at least 100mm high, on the front and back.

(d) Management staff at the venue must ensure that a clear footway width of 2 metres is maintained at all times along all footpaths immediately adjoining the premises. Patrons waiting to enter the premises must queue along the immediate frontage of the premises. The queue must not obstruct any fire exit of any building or entrance to any other premises.

(e) When more than one security guard is on duty, security officers and management must communicate by hand held radios at all times.

**Reason**

To ensure the safety and security of staff, patrons and the surrounding neighbourhood is adequately monitored and maintained.

**(164) INCIDENTS – RECORDING AND NOTIFICATION**

The manager/licensee must ensure that all incidents involving staff members (including security personnel) are recorded in the incident register maintained on site, including incidents involving physical contact between staff and patrons, physical restraint of patrons and/or the ejection of patrons from the premises.

**Reason**

To safeguard the amenity of staff, patrons and the surrounding neighbourhood.

**(165) SURVEILLANCE CAMERAS**

(a) CCTV surveillance cameras must be strategically installed, operated and maintained throughout the premises with particular coverage to:

(i) principal entrance/s and exits;

(ii) all areas within the premise occupied by the public (excluding toilets);

(iii) staircases in multilevel premises; and

(iv) the area within a 10m radius external to the public entrance(s) to the premise.

(b) Suitable and clearly visible signage must be displayed at the principal entrance(s) to the premise and in a prominent position on each floor accessible to the public, in lettering not less than 50mm in height with the words “Closed Circuit Television in use on these premises”.

(c) All CCTV recording equipment and cameras must be of high grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera must be capable of recording a minimum rate of 10 frames per second and at high resolution.

(d) CCTV recording discs or hard drive recordings must be retained for 28 days before being re-used, destroyed or deleted. Time and date must be auto recorded on the disc or hard drive. The CCTV recording equipment must be capable of reproducing a CD, DVD, USB or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 12 hours of the request being made. Stored digital copies of CCTV recordings must be handed to Council, Police Officer or Special Inspectors as required.

(e) All CCTV recording devices and cameras must be checked daily to ensure the equipment is operating correctly. The Licensee must record this daily checking activity in the security/incident register book that meets the standards required by the Licensing Police and Council. If it is discovered at any time that the equipment is not in full operating order all reasonable steps

must be taken to repair the system as soon as practicable. Where the system will not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander of the NSW Police.

(f) All CCTV recording devices and cameras must be operated at all times when the premises are open to the public and, where premises do not operate 24 hours a day, continuously for at least 1 hour prior to opening and closing times of the premises.

(g) The CCTV recording device must be secured within the premises and only be accessible to senior management personnel so as to maintain the integrity of the recorded footage. When the premises is operating there must be at least one staff member present at the premises who is authorised to access the CCTV system and able to immediately review recordings and produce copies.

(h) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

**Reason**

To ensure the safety and security of staff, patrons and the surrounding neighbourhood is adequately monitored and maintained.

**(166) 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.

**(167) GLASS CRUSHER**

All glass bottles and other glass waste must be reduced to glass shards (by way of a glass crusher located inside the premises) prior to the removal of such waste from the premises.

**Reason**

To safeguard the amenity of the surrounding neighbourhood.

**(168) NOISE FROM GLASS REMOVAL**

Glass must not be emptied or transferred from one receptacle to another anywhere in a public place. All glass must be emptied / transferred inside of the building on the premises and removed in containers.

**Reason**

To safeguard the amenity of the surrounding neighbourhood.

**(169) NEIGHBOURHOOD AMENITY**

(a) Signs must be placed in clearly visible positions within the licensed premises requesting patrons upon leaving the premises to do so quickly and quietly, having regard to maintaining the amenity of the area. The signage must be in bold letters not less than 25mm in height on a contrasting background.

(b) The management/licensee must ensure that the behaviour of patrons entering and leaving the premises does not detrimentally affect the amenity of the neighbourhood. In this regard the management must be responsible for the control of noise, loitering and litter generated by patrons of the premises and must ensure that people leave the premises and area in an orderly manner.

**Reason**

To safeguard the amenity of the surrounding neighbourhood.

**(170) CAR PARK VENTILATION**

The car park must be ventilated in accordance with the *National Construction Code (previously known as Building Code of Australia)* and, where necessary, Australian Standard AS1668, Parts 1 and 2. Ventilation must be controlled by carbon monoxide monitoring sensors to ensure compliance with occupant health requirements.

**Reason**

To ensure car park ventilation complies with relevant standards.

**(171) NOISE - ENTERTAINMENT**

(a) The $L_{Aeq,\ 15\ minute}$ noise level from the use must not exceed the background noise level ($L_{A90,\ 15minute}$) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) by more than 5dB between 7.00am and 12.00am midnight when assessed at the boundary of any residential accommodation or tourist and visitor accommodation.

(b) The $L_{Aeq,\ 15\ minute}$ noise level from the use must not exceed the background noise level ($L_{A90,\ 15\ minute}$) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) between 12.00am midnight and 7.00am when assessed at the boundary of any residential accommodation or tourist and visitor accommodation.

(c) Notwithstanding (a) above, the $L_{Aeq,\ 15\ minute}$ noise level from the use must not exceed the greater of the following levels between 7.00am and 12.00am midnight inside any habitable room of a residential accommodation or tourist and visitor accommodation, or at any time in an affected commercial premises:

(i) The existing internal $L_{A90,\ 15\ minute}$ (from external sources excluding the use) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive). Or,

(ii) If the $L_{Z90,\ 15\ minute}$ background level is below the hearing threshold curve (Tf - Table 1 of ISO 226 : 2003) in an above octave band, the lowest audible sound level (Lp) of the Tf curve in that octave band shall become that octave's $L_{Zeq\ 15\ minute}$ noise criteria level.

(d) Notwithstanding (b) above, the $L_{A1\ 15\ minute}$ noise level from the use must not exceed the greater of the following sound pressure levels inside any habitable room between 12.00am midnight and 7.00am inside any habitable room of an affected residential accommodation or tourist and visitor accommodation:

(i) The existing internal $L_{A90,\ 15\ minute}$ (from external sources excluding the use) minus 10 dB in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) inside a habitable room of an affected residential accommodation or tourist and visitor accommodation. Or,

(ii) If the $L_{Z90,\ 15\ minute}$ minus 10 dB level is below the hearing threshold curve (Tf - Table 1 of ISO 226 : 2003) in an above octave band, the lowest audible sound level (Lp) of the Tf curve in that octave band shall become that octave's $L_{Z1\ 15\ minute}$ noise criteria level.

Note: $L_{eq}$, $L_{01,}$ and $L_{90,}$ metrics and 'A' (weightings) are as per the definitions in the standard AS1055-20148. 'Z' means unweighted noise. An internal $L_{A90}$ level must be determined in the absence of noise emitted by the use and be sufficiently representative of the receiver in a low noise level quiet state. External $L_{A90}$ levels for planning must be established as per the long-term methodology in Fact Sheet B of the NPfI unless otherwise agreed by the City's Area Planning Manager.

**Reason**

To protect the acoustic amenity of surrounding properties.

**(172) NOISE – INSTALLATION, SETUP, TESTING AND CALIBRATION OF LIMITER/S, PRIOR TO AN OCCUPATION CERTIFICATE**

Prior to the issue of an Occupation Certificate, a Suitably Qualified Acoustic Consultant* is to provide a Noise Limiter/s Verification Report to the written satisfaction of the Principal Certifier that the development complies with the requirements set out as follows, and any relevant requirement in the COMPLIANCE WITH THE ACOUSTIC REPORT CONDITION PRIOR TO CONSTRUCTION OR OCCUPATION CERTIFICATES condition:

(a) All sound amplification equipment in the premises must be controlled by a Root Mean Square (RMS) noise limiter with an attack time constant not exceeding 0.5 seconds, release time constant not less than 1 second and a compression ratio equal of at least 20:1. The limiter shall be set by a suitably qualified acoustic consultant* as per the manufacturer's specification. The consultant must ensure that resultant amplified sound complies with the Council's criteria for entertainment noise.

(b) All Limiters and all post-limiter equipment including power amplifiers must be tamper proof and only operable by the acoustic consultant, a licensee and business owner who must keep a completed report on the premises.

(c) This report must certify that limiter/s were installed, tested and calibrated so amplified noise will comply with the NOISE – ENTERTAINMENT Condition. The report will be prepared in accordance with and provide detail on the following requirements:

(i) An initial calibration of the operation of the limiter with the sound amplification equipment is to be undertaken. This assessment must include setting of the amplification system in addition to a documented overview of the system so that compliance is achieved with the noise criteria as referenced in parts (a) to (c) above.

(ii) Limiter settings and subsequent equipment must be benchmarked at the time of the above operational assessment. Pink noise and a swept sine wave signal must be fed into the amplification system and the level of the noise increased until the limiter operates continuously to comply with criteria. The $L_{Aeq}$, $L_{A1,}$ $L_{Ceq}$ and $L_{C1}$ (1/1 octave bands - 31.5 Hz to 8 kHz centre frequencies) levels must be measured at suitable relevant reference location/s in the premises, with the premises empty other than essential staff. Correlating $L_{Aeq}$/$L_{A1}$ and $L_{Ceq}$/$L_{C1}$ measurements must be taken at identified nearby noise sensitive receivers during this process.

(iii) Music must then be played through the sound system(s) with the limiter(s) in continuous operation to verify the limiters work correctly and meet noise criteria at the locations detailed above.

(iv) The report will address the limiter installed within the premises (including but not limited to its brand, type specifications and location) including the noise control levels the limiter was set to (including a copy of the software configuration file for any digital signal processing device used). Furthermore, all post limiter equipment will be photographed, documented and catalogued in the report including location on a layout drawing.

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).

**Reason**

To protect the acoustic amenity of surrounding properties.

**(173) NOISE – AMPLIFIED SOUND AND THE UPKEEP AND OPERATION OF LIMITER/S**

Following receipt of the report as per part (b) of the NOISE - INSTALLATION, SETUP, TESTING & CALIBRATION OF LIMITER/S, PRIOR TO AN OCCUPATION CERTIFICATE condition (and receipt of the relevant occupation certificate), the report is to be kept on the premises at all times, signed and dated by the licensee and business owner. From this point forward the licensee and business owner must ensure the following:

(a) The limiter/s and sound amplification system must be maintained and not tampered with. That unauthorised modifications are not made which are

contrary to the report. Repairs and replacements may be made to the system as necessary with any like component but must not be capable of increasing the permitted noise amplification levels outlined in the report.

(b) That additional amplification equipment must not be brought onsite which if used could cause cumulative entertainment noise (including amplified sound) from the development to exceed controls in this consent. This does not apply to:

(i) Equipment that is only used when routed through and controlled by the limiter/s, i.e. the limiters and amplified sound system on the premises are capable of receiving and controlling that equipment, and

(ii) Such that use of the equipment must not cause amplified sound which exceeds the cumulative entertainment noise controls in this consent.

**Reason**

To protect the acoustic amenity of surrounding properties.

**(174) 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.

**(175) NOISE – STRUCTURE BORNE IMPACT ON SEPARATE PREMISES OR TOURIST & VISITOR ACCOMMODATION**

(a) Structure borne noise emanating from the premises is not to exceed the following criterion when measured within any relevant premises:

(i) $L_{A1,\ Slow\ 15\ minute} \leq L_{A90,\ 15\ minute}$ +0 dB(A).

(b) In this condition, a relevant premises means:

(i) The Tourist and visitor accommodation as part of this development consent, and

(ii) Any separate premises.

**Reason**

To protect the acoustic amenity of surrounding properties.

**(176) VIBRATION**

Operation of the use is not to result in the transmission of any perceptible vibration to an occupiable area within:

(a) The Tourist and visitor accommodation as part of this development consent, and

(b) Any separate premises.

**Reason**

To protect the amenity of surrounding properties.

**(177) EXTERNAL DOORS & WINDOWS TO REMAIN CLOSED AT CERTAIN TIMES AND DURING CERTAIN OPERATIONS**

External doors and windows are to be closed at times specified and during certain operations to comply with the requirements of the Acoustic Report prepared by Pulse White Noise Acoustics dated 7 September 2023, ref 210050 Rev 11, titled Metro Theatre Hotel, Council Ref: 2023/549795.

**Reason**

To protect the amenity of surrounding properties.

**(178) ENCROACHMENTS – NEIGHBOURING PROPERTIES**

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

**Reason**

To protect neighbouring properties.

**(179) 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.

**(180) DELIVERY VEHICLES**

Deliveries associated with the site that involve the movement of vehicles, must only occur between the hours of 7.00am and 10.00pm.

**Reason**

To ensure deliveries to the site do not adversely impact on local traffic movements.

**(181) ON SITE LOADING AREAS AND OPERATION**

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

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

**Reason**

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

**(182) ALCOVE LIGHTING**

The approved alcoves on the Orwell Street and Orwell Lane frontages must be fitted with a sensor-activated security light. The light must be maintained in good working order. The intensity, colour, and 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. LED lighting technology (or other technology with an improved lighting power density – watts per square metre) must be implemented.

**Reason**

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

**(183) 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.

**(184) 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.

**(185) 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.

## 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 8A of the *Environmental Planning and Assessment Regulation, 2021*. This can be accessed at: http://www.legislation.nsw.gov.au

**SCHEDULE 3**

**TERMS OF APPROVAL**

The Terms of Approval for Integrated Development as advised by Heritage NSW are as follows:

**APPROVED DEVELOPMENT**

1. Development must be in accordance with:
   a. Architectural drawings, prepared by Tonkin Zulaikha Greer as listed below:

| **Dwg No** | **Dwg Title** | **Date** | **Rev** |
|---|---|---|---|
| **Project Name: The Minerva** | | | |
| A-000 | Cover Page | 16/08/2023 | F |
| A-001 | Site Plan | 1/03/2023 | - |
| A-002 | Site Analysis | 1/03/2023 | - |
| A-050 | Basement 3&4 Demolition Plan (BLANK) | 1/03/2023 | A |
| A-051 | Basement 2 Demolition Plan | 1/03/2023 | B |
| A-052 | Basement 1 Demolition Plan | 1/03/2023 | B |
| A-053 | Ground Demolition Plan | 1/03/2023 | C |
| A-054 | Level 1 Demolition Plan | 1/03/2023 | C |
| A-055 | Level 2 Demolition Plan | 1/03/2023 | - |
| A-056 | Level 3 Demolition Plan | 1/03/2023 | A |
| A-057 | Level 4 Demolition Plan | 1/03/2023 | A |
| A-058 | Level 5 Demolition Plan | 1/03/2023 | A |
| A-059 | Roof Demolition Plan | 1/03/2023 | - |
| A-060 | Ground RCP Demolition | 1/03/2023 | A |
| A-061 | Level 1 RCP Demolition | 1/03/2023 | - |
| A-062 | Level 3 RCP Demolition | 1/03/2023 | A |
| A-070 | Demolition South Elevation | 1/03/2023 | B |
| A-071 | Demolition North Elevation | 1/05/2023 | C |

| Dwg No | Dwg Title | Date | Rev |
|---|---|---|---|
| A-072 | Demolition East Elevation | 1/03/2023 | C |
| A-073 | Demolition West Elevation | 1/03/2023 | C |
| A-080 | Long Section Demolition | 1/03/2023 | D |
| A-081 | Cross Section A Demolition | 1/03/2023 | D |
| A-102 | Basement 2 Floor Plan | 16/08/2023 | F |
| A-103 | Basement 1 Floor Plan | 16/08/2023 | E |
| A-104 | Ground Floor Plan | 16/08/2023 | I |
| A-105 | Level 1 Plan | 16/08/2023 | G |
| A-106 | Level 2 Plan | 16/08/2023 | G |
| A-107 | Level 3 Plan | 16/08/2023 | D |
| A-108 | Level 4 Plan | 16/08/2023 | E |
| A-109 | Level 5 Plan | 16/08/2023 | F |
| A-110 | Level 6 Plan | 16/08/2023 | E |
| A-111 | Roof Plan | 16/08/2023 | D |
| A-121 | Auditorium RCP Proposed Ground Floor – Level 3 | 1/03/2023 | D |
| A-200 | South Elevation | 1/03/2023 | D |
| A-201 | South Elevation Fly Tower Façade | 1/03/2023 | E |
| A-202 | North Elevation | 16/08/2023 | E |
| A-203 | North Elevation Fly Tower Façade | 16/08/2023 | F |
| A-204 | East Elevation | 16/08/2023 | E |
| A-205 | East Elevation Fly Tower Facade | 16/08/2023 | E |
| A-206 | West Elevation | 1/03/2023 | C |
| A-207 | West Elevation Fly Tower Façade | 1/03/2023 | C |
| A-208 | West Elevation Inner Façade | 1/03/2023 | D |

| Dwg No | Dwg Title | Date | Rev |
|---|---|---|---|
| A-210 | Signage Strategy – South Elevation | 1/03/2023 | C |
| A-211 | Signage Strategy – East Elevation | 1/03/2023 | D |
| A-300 | Longitudinal Section 1 | 1/03/2023 | E |
| A-301 | Cross Section 1 | 1/03/2023 | E |
| A-302 | Cross Section 2 | 1/03/2023 | E |
| A-303 | Longitudinal Section 2 | 16/08/2023 | F |
| A-304 | Longitudinal Section 3 | 1/03/2023 | E |
| A-305 | Cross Section 3 | 1/03/2023 | E |
| A-306 | Section: Sun Shadow Analysis | 1/03/2023 | A |
| A-400 | Perspective Images – 1 | 1/03/2023 | B |
| A-401 | Perspective Images – 2 | 1/03/2023 | - |
| A-402 | Perspective Images – 3 | 1/03/2023 | - |
| A-403 | Perspective Images – 4 | 1/03/2023 | A |
| A-500 | Shadow Diagrams – 21 June (1of 2) | 1/03/2023 | B |
| A-501 | Shadow Diagrams – 21 June (2of 2) | 1/03/2023 | B |
| A-600 | GFA Diagrams | 16/08/2023 | E |
| A-601 | Materials Board | 1/03/2023 | C |
| A-602 | Flytower Window Schedule | 1/03/2023 | D |
| A-603 | Flytower Schedule Room Area Plans | 1/03/2023 | B |
| A-605 | LEP VS Proposed Height Comparison | 16/08/2023 | A |
| A-606 | 22m Height Plane | 16/08/2023 | - |
| A-607 | View Diagrams | 21/08/2023 | - |
| A-608 | Reversibility Potential | 17/08/2023 | - |

| Dwg No | Dwg Title | Date | Rev |
|---|---|---|---|
| A-609 | View Diagrams from 25 Hughes St Terrace | 21/08/2023 | - |

b. Fire Safety Sprinkler System Drawings, prepared by LCI as listed below:

| Dwg No | Dwg Title | Date | Rev |
|---|---|---|---|
| **Project Name: The Minerva** | | | |
| 220459-F100 | Fire Services – Level 2 Sprinkler Layout | 7/02/2023 | A |
| 220459-F100 | Fire Services – Level 2 Sprinkler Layout | 7/02/2023 | A |

c. Public Domain Plan, prepared by Arcadia as listed below:

| Dwg No | Dwg Title | Date | Rev |
|---|---|---|---|
| **Project Name: The Minerva** | | | |
| L-000 | Cover page | 18.11.22 | B |
| L-101 | Landscape Masterplan Public Domain | 18.11.22 | B |
| L-201 | Setout + Grading Public Domain Plans | 18.11.22 | B |

d. *Statement of Heritage Impact- Rev 2*, prepared by Tonkin Zulaikha Greer, dated June 2022
e. *Conservation Management Plan*, prepared by Tanner Kibble Denton, dated June 2020.
f. *Statement of Environmental Effects*, prepared by Planning Lab, dated 29 July 2021
g. *Heritage Interpretation Strategy*, prepared by Tonkin Zulaikha Greer, dated July 2021
h. *Baseline Archaeological Assessment*, prepared by Archaeological Management & Consulting Group, dated 13 July 2021.
i. A*rchaeological Research Design & Excavation Methodology*, prepared by Archaeological Management & Consulting Group, dated November 2022
j. *Historical Archaeology Test Excavation Report*, prepared by Archaeological Management & Consulting Group, dated May 2022
k. Technical Memo Titled *Piling, vibration and impact on existing footing details*, prepared by Taylor Thomas Whitting, dated 20 July 2022.

l. Technical Memo for *Additional information requested relating to locations of columns and shear walls*, prepared by Taylor Thomas Whitting, dated 18 April 2023
m. *Structural Methodology & Construction Sequence*, prepared by Taylor Thomas Whitting
n. *Alterations And Additions to The Minerva Theatre – Clause 4.6 Variation Request*, prepared by Planning Lab, dated 22 August 2023
o. *Auditorium Methodology Report*, prepared by Taylor Thomas Whitting, dated 24 May 2022
p. *View Loss Assessment*, prepared by Urbaine Design Group, dated 17 February 2023
q. *Visual Impact Assessment*, prepared by Urbaine Design Group, dated August 2022
r. *Façade Study,* prepared by Tonkin Zulaikha Greer
s. *Levels 1 & 2 Relationship to Façade*, prepared by Tonkin Zulaikha Greer, dated 13 April 2023
t. *Section to Demonstrate Extent of Retained Existing Northern Wall*, prepared by Tonkin Zulaikha Greer, dated 13 April 2023
u. Letter titled *Development Application No 2021/893 Response to City Sydney Request for Information*, prepared by Central Element, dated 23 August 2023.
v. *Structural Diagram 1 & 2*, prepared by Tonkin Zulaikha Greer, dated 14 April 2023

**EXCEPT AS AMENDED** by the following general terms of approval:

**DETAILS TO BE SUBMITTED FOR APPROVAL**

2. The following information is to be submitted with the s60 application for approval by the Heritage Council of NSW (or delegate):
    a. Revised construction methodology drawings and structural sequencing reflecting the updated proposal.
    b. Structural adequacy report of the upper stalls/balcony and their ability to withstand additional load.
    c. Detailed drawings providing further details on the facilities required to operate the entertainment venue including lighting, green rooms, backstage storage, sound, etc., to maintain as much of the original heritage fabric and form as possible.
    d. Detailed drawings that consider compliance with building standards, safety and access.
    e. Minimise the number of openings to reduce impact on eastern and western elevations. The openings should be articulated to be sympathetic to the style of the existing Interwar heritage facades.
    f. Detailed inventory, condition and significance assessment of all existing fabric and a detailed schedule of conservation works.
    g. Provide an inventory of significant fabric being salvaged for reuse within the building or used as part of interpretation.
    h. An inventory of moveable heritage items associated to the significant historical occupancy of the building be recorded. The inventory should identify items, their storage (short and long term) and their eventual relocation within the site.

*Reason: The details requested were not supplied during the assessment of the application. The subject site contains historical archaeological relics, which are protected under the Heritage Act 1977 and must be managed appropriately.*

**HERITAGE CONSULTANT**

3. A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

*Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.*

**SPECIALIST TRADESPERSONS**

4. All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials, and construction methods.

*Reason: So that the construction, conservation, and repair of significant fabric follows best heritage practice.*

**SITE PROTECTION**

5. Report outlining a program of monitoring and mitigation measures to be undertaken before, during and after construction. The report should address the following aspects:
    a. Strict ring fencing of allowable demolition, and necessary conservation works, as the builder's value engineering may lead to further loss of existing building to save cost and enable construction.
    b. The piles are very close to the existing structure. It is critical to set parameters to preserve the existing building from damage from vibration, and lateral and vertical movement of the existing foundation to be retained.
    c. The vibration levels set by the German Standard are the minimum requirement for vibration and lateral movement of the retained ground behind the perimeter piles to be limited to 0.001% of the retained height. Furthermore, the loads affecting these movements are to be doubled of the normal design loads to provide some assurance against likely failure of the system.
    d. The monitoring setup to remain permanently with the building (e.g., monitoring vibrations and relative movements) for future condition assessments.
    e. These measures are to be monitored by an independent body.

6. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

*Reason: To ensure significant fabric is protected during construction.*

**HERITAGE INTERPRETATION PLAN**

7. An interpretation plan must be prepared in accordance with the Heritage NSW publication ‘Interpreting Heritage Places and Items Guidelines’ (2005) and

submitted for approval to the Heritage Council of NSW (or delegate) prior to the issue of a Construction Certificate/ Government certification.

8. The interpretation plan must detail how information on the history and significance of name of item will be provided for the public, and make recommendations regarding public accessibility, signage, and lighting. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project.
9. The approved interpretation plan must be implemented prior to the issue of an Occupation Certificate.

*Reason: Interpretation is an important part of every proposal for works at heritage places.*

**PHOTOGRAPHIC ARCHIVAL RECORDING**

10. A photographic archival recording must be prepared prior to the commencement of works, during works and at the completion of works. 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 Heritage NSW, Department of Premier and Cabinet.

*Reason: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.*

**HISTORICAL ARCHAEOLOGY**

**11. SECTION 60 APPLICATION**

An application for archaeological excavations under section 60 of the Heritage Act 1977 must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

12. As part of the section 60 application:
    a. The applicant shall submit an Archaeological Research Design and Excavation Methodology prepared by a suitably qualified and experienced historical archaeologist to ensure that the salvage of any Orwell House remains for completeness of scientific knowledge.
    b. The applicant shall nominate an Excavation Director(s) suitable to satisfy the Excavation Director Criteria of the Heritage Council of NSW for the proposed activity and significance level. The nomination(s) shall be supported by a response to the Excavation Director Criteria 2019.
    c. Following the receipt of the Archaeological Research Design and Excavation Methodology as part of the section 60 application, the Heritage Council of NSW reserves the right to issue Archaeological Conditions as part of the section 60 approval to manage the archaeology. Matters such as (but not limited to) fieldwork methodology, artefact analysis, final reporting may be included as part of these archaeological conditions.

*Reason: The subject site contains historical archaeological relics, which are protected under the Heritage Act 1977 and must be managed appropriately.*

**UNEXPECTED HISTORICAL ARCHAEOLOGICAL RELICS**

13. The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of

NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

*Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.*

**COMPLIANCE**

14. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

*Reason: To ensure that the proposed works are completed as approved.*

**SECTION 60 APPLICATION**

15. An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

*Reason: To meet legislative requirements.*

**SCHEDULE 4**

**TERMS OF APPROVAL**

The Terms of Approval for Integrated Development as advised by Water NSW are as follows:

| | |
|---|---|
| GT0115-00001 | Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed. |
| GT0116-00001 | Before any construction certificate is issued for any excavation under the development consent, the applicant must: 1. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and 2. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity<br>Advisory Note: 3. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity. 4. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force. |
| GT0117-00001 | A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity.<br>Advisory Notes: 1. This approval is not a water access licence. 2. A water year commences on 1 July each year. 3. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW. 4. Note that certain water sources may be exempted from this requirement - see paragraph17A, Schedule 4 of the Water Management (General) Regulation 2018. |
| GT0118-00001 | If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must: (a) record water taken for which the exemption is claimed, and (b) record the take of water not later than 24 hours after water is taken, and (c) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and (d) keep the record for a period of 5 years, and (e) give the record to WaterNSW either via email to Customer.Helpdesk@waternsw.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124 (i) not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or (ii) if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date. |

GT0119-00001 All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.

GT0120-00001 The design and construction of the building must prevent: (a)any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation; (b)obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and (c)any elevated water table from rising to within 1.0 m below the natural ground surface.

GT0121-00001 Construction phase monitoring bore requirements GTA: a) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW. b) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application. c) The monitoring bores must be installed and maintained as required by the water supply work approval. d) The monitoring bores must be protected from construction damage.

GT0122-00001 Construction Phase Monitoring programme and content: a) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW): i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW. ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater; iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW; iv. QA: Include details of quality assurance and control v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories. b) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)

GT0123-00001 (a) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW. (b) The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW): 1) All results from the Approved Monitoring Programme; and 2) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website. c) The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website www.waternsw.com.au/customer-service/water-licensing/dewatering

GT0150-00001 The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment.
Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual

GT0151-00001 Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval).
Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

GT0152-00001 This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001.
Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

GT0155-00001 The following construction phase monitoring requirements apply (Works Approval): a. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW. b. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme). c. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

**SCHEDULE 5**

**AGENCY CONDITIONS**

The following conditions have been imposed by Ausgrid:

**METHOD OF ELECTRICITY CONNECTION**
The method of connection will be in line with Ausgrid's Electrical Standard (ES)1 – 'Premise Connection Requirements.

**SUPPLY OF ELECTRICITY**
It is recommended for the nominated electrical consultant/contractor to provide a preliminary enquiry to Ausgrid to obtain advice for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the enquiry which may include whether or not:
- The existing network can support the expected electrical load of the development
- A substation may be required on-site, either a pad mount kiosk or chamber style and;
- site conditions or other issues that may impact on the method of supply.

Please direct the developer to Ausgrid's website, www.ausgrid.com.au about how to connect to Ausgrid's network.

**PROXIMITY TO EXISTING NETWORK ASSETS**
**UNDERGROUND CABLES**
There are existing underground electricity network assets in 28-30 ORWELL STREET.

Special care should also be taken to ensure that driveways and any other construction activities within the footpath area do not interfere with the existing cables in the footpath. Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed. Hence it is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area.

Safework Australia – Excavation Code of Practice, and Ausgrid's Network Standard NS156 outlines the minimum requirements for working around Ausgrid's underground cables.

**SUBSTATION**
There are proposal electricity substation assets within 28-30 ORWELL STREET POTTS POINT.

The substation ventilation openings, including substation duct openings and louvered panels, must be separated from building air intake and exhaust openings, natural ventilation openings and boundaries of adjacent allotments, by separation distances which meet the requirements of all relevant authorities, building regulations, BCA and Australian Standards including AS1668.2: The use of ventilation and air-conditioning in buildings - Mechanical ventilation in buildings.

In addition to above, Ausgrid requires the substation ventilation openings, including duct openings and louvered panels, to be separated from building ventilation system air intake and exhaust openings, including those on buildings on adjacent allotments, by not less than 6 metres.

Exterior parts of buildings within 3 metres in any direction from substation ventilation openings, including duct openings and louvered panels, must have a fire rating level (FRL) of not less than 180/180/180 where the substation contains oil-filled equipment, or

120/120/120 where there is no oil filled equipment and be constructed of non-combustible material.

The development must comply with both the Reference Levels and the precautionary requirements of the ICNIRP Guidelines for Limiting Exposure to Time-varying Electric and Magnetic Fields (1 HZ – 100 kHZ) (ICNIRP 2010).

For further details on fire segregation requirements refer to Ausgrid's Network Standard 113.

Existing Ausgrid easements, leases and/or right of ways must be maintained at all times to ensure 24 hour access. No temporary or permanent alterations to this property tenure can occur without written approval from Ausgrid.

For further details refer to Ausgrid’s Network Standard 143.

# Attachment B1

## Selected Drawings

# THE MINERVA




| DRAWING LIST - DEVELOPMENT APPLICATION | | | |
|---|---|---|---|
| | | Scale @ A1 | Current Revision ID |
| **A 000 GENERAL INFORMATION** | | | |
| A-000 | COVER PAGE | | F |
| A-001 | SITE PLAN | 1:500 | |
| A-002 | SITE ANALYSIS | 1:500 | - |
| **A 050 DEMOLITION PLANS** | | | |
| A-050 | BASEMENT 3 & 4 DEMOLITION PLAN | 1:100 | A |
| A-051 | BASEMENT 2 DEMOLITION PLAN | 1:100 | B |
| A-052 | BASEMENT 1 DEMOLITION PLAN | 1:100 | B |
| A-053 | GROUND DEMOLITION PLAN | 1:100 | C |
| A-054 | LEVEL 1 DEMOLITION PLAN | 1:100 | C |
| A-055 | LEVEL 2 DEMOLITION PLAN | 1:100 | - |
| A-056 | LEVEL 3 DEMOLITION PLAN | 1:100 | - |
| A-057 | LEVEL 4 DEMOLITION PLAN | 1:100 | - |
| A-058 | LEVEL 5 DEMOLITION PLAN | 1:100 | - |
| A-059 | ROOF DEMOLITION PLAN | 1:100 | - |
| **A 060 DEMOLITION REFLECTED CEILING PLANS** | | | |
| A-060 | GROUND RCP DEMOLITION | 1:100 | A |
| A-061 | LEVEL 1 RCP DEMOLITION | 1:100 | - |
| A-062 | LEVEL 3 RCP DEMOLITION | 1:100 | - |
| **A 070 DEMOLITION ELEVATIONS** | | | |
| A-070 | DEMOLITION SOUTH ELEVATION | 1:100 | A |
| A-071 | DEMOLITION NORTH ELEVATION | 1:100 | A |
| A-072 | DEMOLITION EAST ELEVATION | 1:100 | B |
| A-073 | DEMOLITION WEST ELEVATION | 1:100 | - |
| **A 080 DEMOLITION SECTIONS** | | | |
| A-080 | LONG SECTION DEMOLITION | 1:100 | C |
| A-081 | CROSS SECTION A DEMOLITION | 1:100 | C |
| **A 100 GENERAL ARRANGEMENT PLANS** | | | |
| A-100 | BASEMENT 4 FLOOR PLAN | 1:100 | A |
| A-101 | BASEMENT 3 FLOOR PLAN | 1:100 | B |
| A-102 | BASEMENT 2 FLOOR PLAN | 1:100 | F |
| A-103 | BASEMENT 1 FLOOR PLAN | 1:100 | E |
| A-104 | GROUND FLOOR PLAN | 1:100 | I |
| A-105 | LEVEL 1 PLAN | 1:100 | G |
| A-106 | LEVEL 2 PLAN | 1:100 | G |
| A-107 | LEVEL 3 PLAN | 1:100 | D |
| A-108 | LEVEL 4 PLAN | 1:100 | E |
| A-109 | LEVEL 5 PLAN | 1:100 | F |
| A-110 | LEVEL 6 PLAN | 1:100 | E |
| A-111 | ROOF PLAN | 1:100 | D |
| **A 120 PROPOSED CEILING PLANS** | | | |
| A-121 | AUDITORIUM RCP PROPOSED GROUND FLOOR - LEVEL 3 | 1:100 | C |
| **A 200 ELEVATIONS** | | | |
| A-200 | SOUTH ELEVATION | 1:100 | D |
| A-201 | SOUTH ELEVATION FLYTOWER FACADE | 1:100 | E |
| A-202 | NORTH ELEVATION | 1:100 | E |
| A-203 | NORTH ELEVATION FLYTOWER FACADE | 1:100 | F |
| A-204 | EAST ELEVATION | 1:100 | E |
| A-205 | EAST ELEVATION FLYTOWER FACADE | 1:100 | E |
| A-206 | WEST ELEVATION | 1:100 | C |
| A-207 | WEST ELEVATION FLYTOWER FACADE | 1:100 | C |
| A-208 | WEST ELEVATION INNER FACADE | 1:100 | D |
| **A 210 ELEVATION SIGNAGE** | | | |
| A-210 | SIGNAGE STRATEGY - SOUTH ELEVATION | 1:100 | C |
| A-211 | SIGNAGE STRATEGY - EAST ELEVATION | 1:100 | D |
| **A 300 SECTIONS** | | | |
| A-300 | LONGITUDINAL SECTION 1 | 1:100 | E |
| A-301 | CROSS SECTION 1 | 1:100 | E |
| A-302 | CROSS SECTION 2 | 1:100 | F |
| A-303 | LONGITUDINAL SECTION 2 | 1:100 | F |
| A-304 | LONGITUDINAL SECTION 3 | 1:100 | E |
| A-305 | CROSS SECTION 3 | 1:100 | E |
| A-306 | SECTION: SUN SHADOW ANALYSIS | 1:1 | A |
| **A 400 PERSPECTIVES & SAMPLE BOARD** | | | |
| A-403 | PERSPECTIVE IMAGES - 4 | | - |
| **A 500 SHADOW DIAGRAMS** | | | |
| A-500 | SHADOW DIAGRAMS - 21 JUNE - 1 of 2 | | B |
| A-501 | SHADOW DIAGRAMS - 21 JUNE - 2 of 2 | | B |
| **A 600 SCHEDULES & DIAGRAMS** | | | |
| A-600 | GFA DIAGRAMS | | E |
| A-601 | MATERIALS BOARD | | C |
| A-602 | FLYTOWER WINDOW SCHDULE | 1:100 | E |
| A-603 | FLYTOWER WINDOW SCHEDULE ROOM AREA PLANS | 1:200 | B |
| A-604 | | | |
| A-605 | LEP VS PROPOSED HEIGHT COMPARISON | | A |
| A-606 | 22m HEIGHT PLANE | | - |

## LEGEND

| Code | Description |
|---|---|
| CO2 | Class 2 off form concrete |
| FH | Fire hydrant |
| FHR | Fire hose reel |
| GCB | Glass, colour backed |
| GD | Glass door |
| GDS | Glass door, sliding |
| GL1 | Glass, clear |
| GL2 | Glass, tinted |
| GL3 | Glass, privacy |
| LWC1 | Lightweight cladding, type 1 |
| LWC2 | Lightweight cladding, type 2 |
| MB | Metal, brass |
| MLF | Louvre, metal, fixed |
| MLO | Louvre, metal, operable |
| MS | Metal screen, brass, perforated |
| PF1 | Paint finish, type 1, to match existing |
| PF2 | Paint finish, type 2, to match existing |
| PF3 | Paint Finish, type 3 |
| PF4 | Paint Finish, type 4 |
| RDP | Roller door, perforated |
| SPP | Steel plate, paint finish |
| X | Existing |
| XD | Existing door |
| XPF | Existing paint finish |
| XW | Existing window |

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 29.NOV.2022 | D | DEVELOPMENT APPLICATION |
| 01 MAR 2023 | E | DEVELOPMENT APPLICATION |
| 16 AUG 2023 | F | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

PROJECT NO : 20024

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**DRAWING TITLE**
COVER PAGE

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** @ A1
**DATE** 16/8/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-000
**REV** F




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| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |

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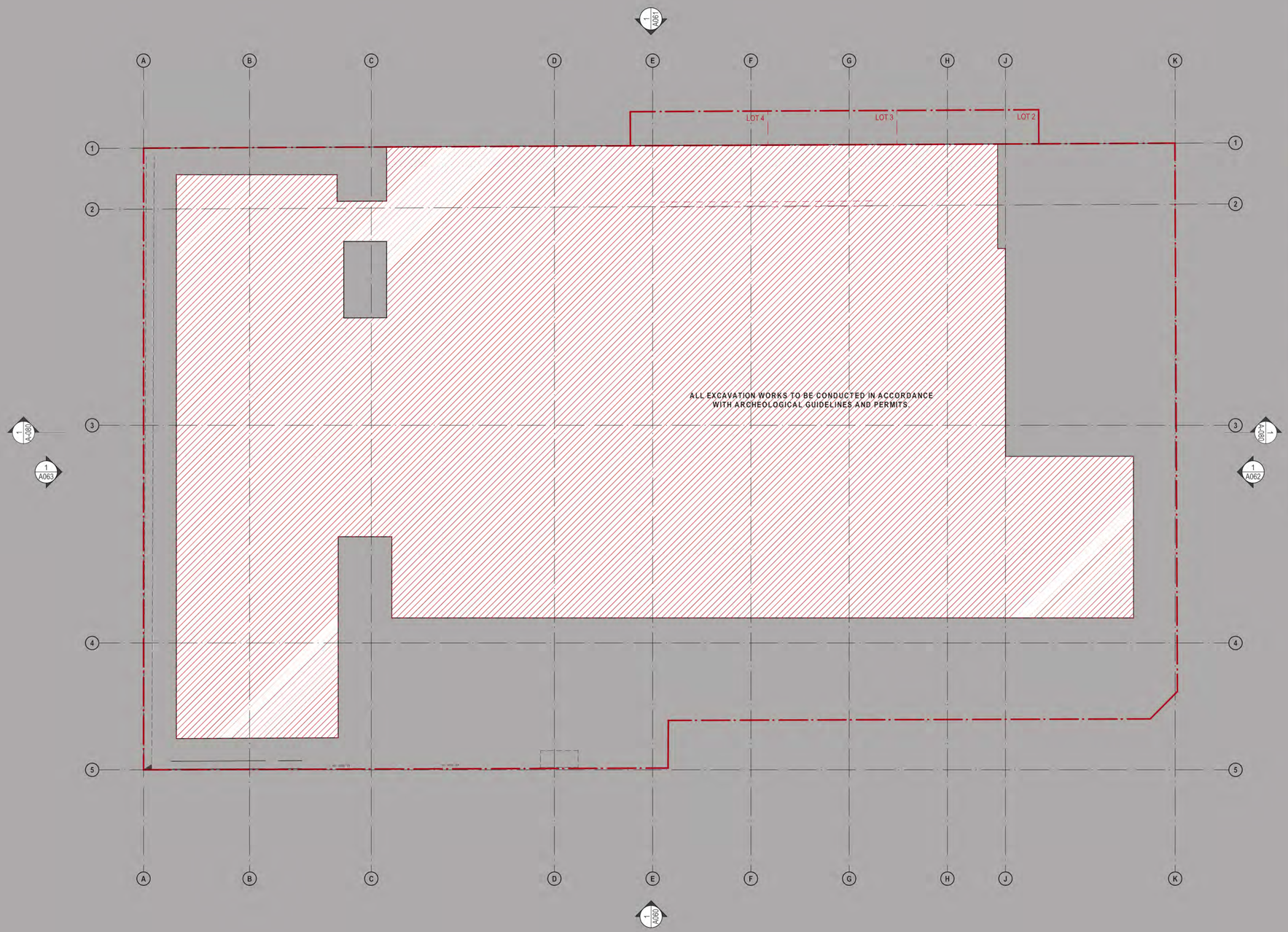
| | | | |
|---|---|---|---|
| DRAWING TITLE<br>SITE ANALYSIS | | | DRAWN BY<br>TS, TL |
| | | | CHECKED<br>TS |
| SCALES<br>1:500 @ A1 | | | DATE<br>1/3/2023 |
| PHASE<br>DEVELOPMENT APPLICATION | DRAWING NO<br>A-002 | | REV<br>- |




## DEMOLITION LEGEND

- EXISTING TO BE RETAINED
- EXISTING ROOF TO BE DEMOLISHED
- EXISTING ROOF DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING SLAB FLOOR TO BE DEMOLISHED
- EXISTING SLAB FLOOR DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING ELEMENTS TO BE DEMOLISHED
- EXISTING ELEMENTS DATED 1980s OR LATER TO BE DEMOLISHED
- EXTENT OF EXCAVATION
- EXISTING ELEMENTS TO BE CAREFULLY DECONSTRUCTED AND STORED FOR FUTURE USE

**NOTES:**

- STRUCTURAL ENGINEER TO PROVIDE DEMOLITION AND BACKPROPPING METHODOLOGY TO ENSURE RETAINED HERITAGE ITEMS ARE NOT DAMAGED. REFER STRUCTURAL ENGINEER'S DETAILS.

- ALL ITEMS IDENTIFIED TO BE DEMOLISHED TO BE CAREFULLY REMOVED AND STORED FOR REINSTATEMENT WHERE NOTED.

- ARCHIVAL RECORDING OF PROPOSED HERITAGE FABRIC TO BE CONDUCTED PRIOR TO REMOVAL AND ELEMENTS TO BE STORED IN SECURE LOCATION FOR FUTURE USE.

- REFER TO PART 5.2 OF THE STATEMENT OF HERITAGE IMPACT FOR THE GRADINGS OF SIGNIFICANCE.

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | A | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | B | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

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SCALE 1:100
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PROJECT NO : 20024

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ARCHITECTS

**DRAWING TITLE**
BASEMENT 2 DEMOLITION PLAN

**DRAWN BY**
TS, TL

**CHECKED**
TS

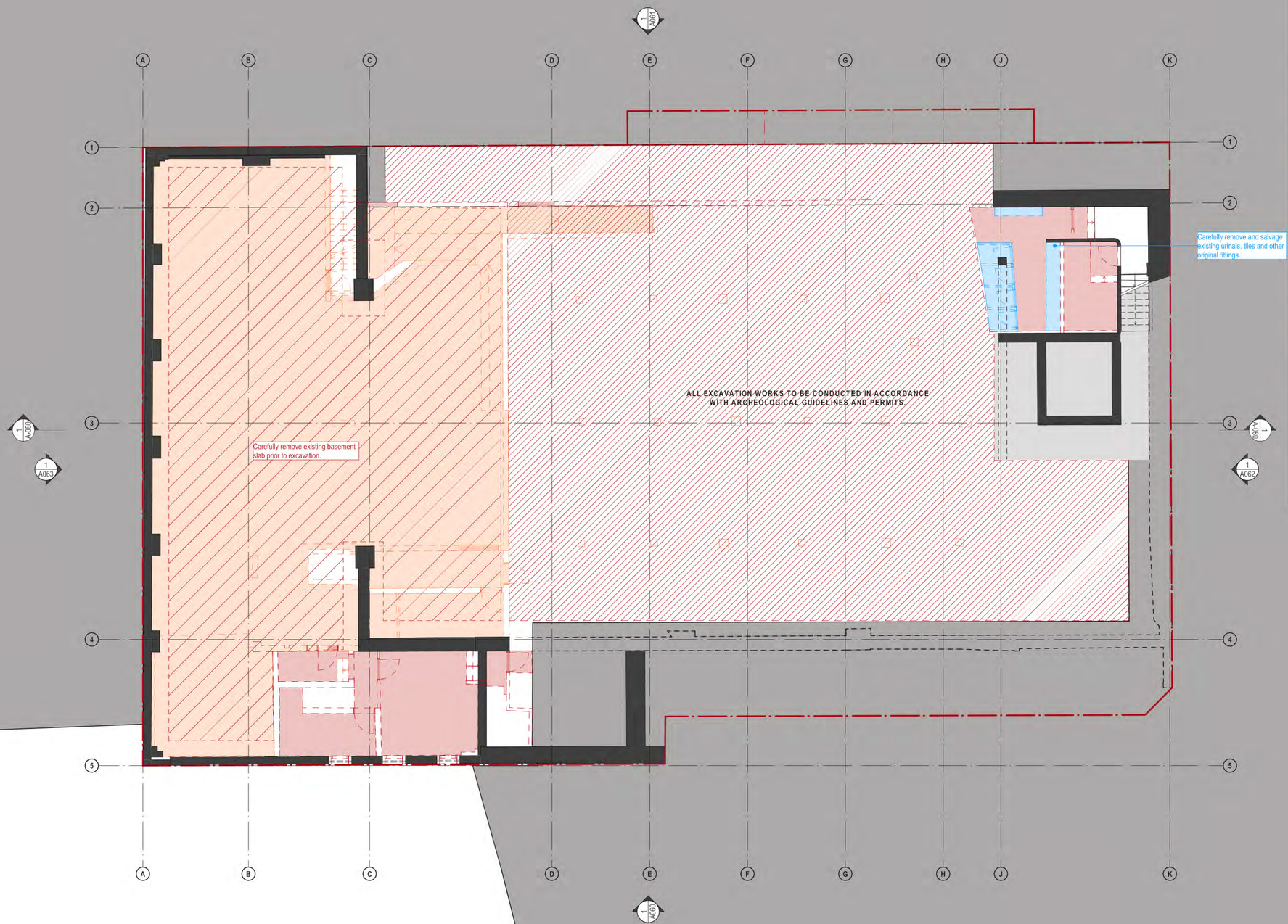
**SCALES**
1:100 @ A1

**DATE**
1/3/2023

**PHASE**
DEVELOPMENT APPLICATION

**DRAWING NO**
A-051

**REV**
B




## DEMOLITION LEGEND

- EXISTING TO BE RETAINED
- EXISTING ROOF TO BE DEMOLISHED
- EXISTING ROOF DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING SLAB FLOOR TO BE DEMOLISHED
- EXISTING SLAB FLOOR DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING ELEMENTS TO BE DEMOLISHED
- EXISTING ELEMENTS DATED 1980s OR LATER TO BE DEMOLISHED
- EXTENT OF EXCAVATION
- EXISTING ELEMENTS TO BE CAREFULLY DECONSTRUCTED AND STORED FOR FUTURE USE

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PROJECT :
THE MINERVA

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PROJECT NO : 20024

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**DRAWING TITLE**
BASEMENT 1 DEMOLITION PLAN

**DRAWN BY** TS, TL

**CHECKED** TS

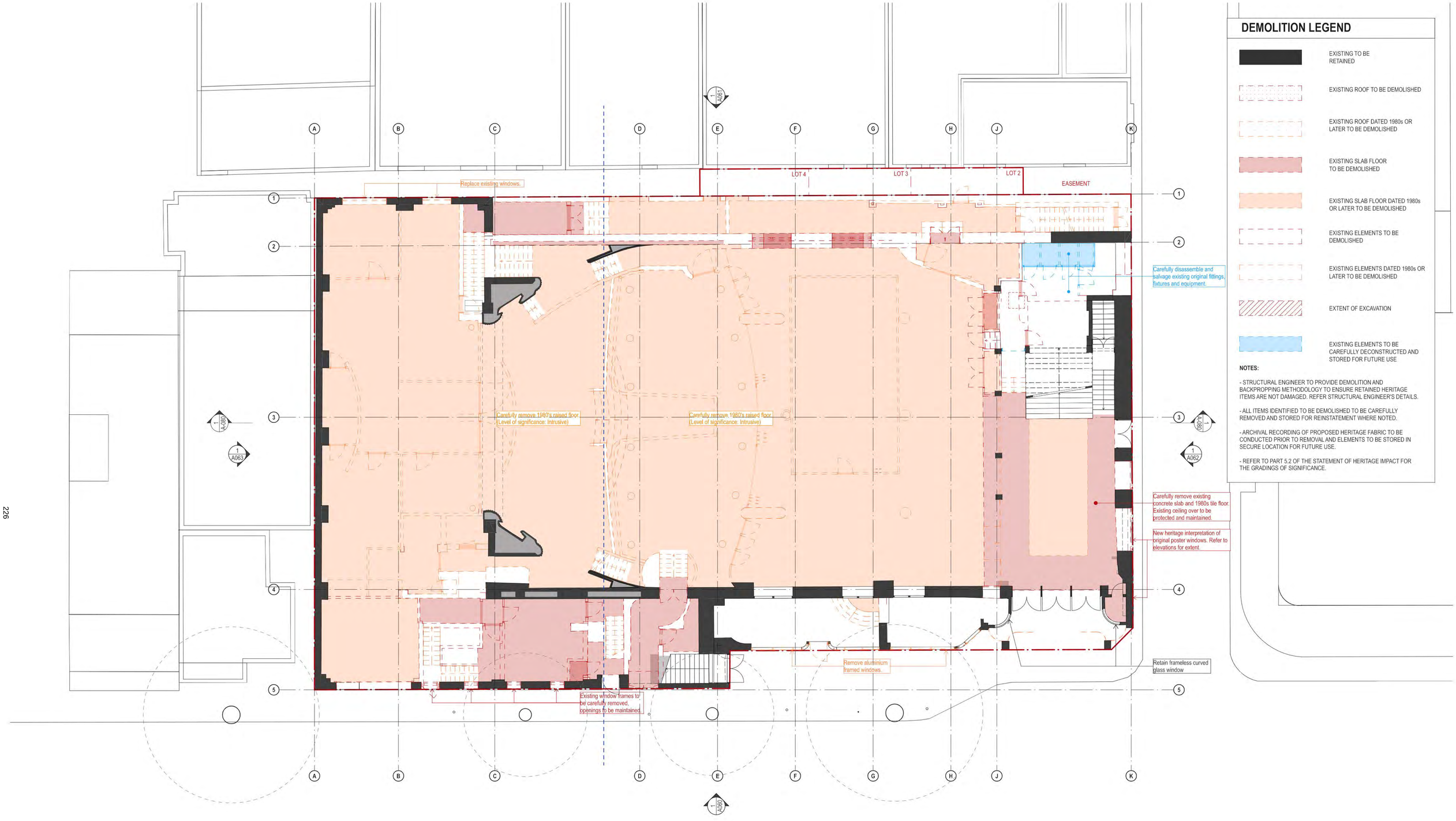
**SCALES** 1:100 @ A1

**DATE** 1/3/2023

**PHASE** DEVELOPMENT APPLICATION

**DRAWING NO** A-052

**REV** B

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PROJECT :
THE MINERVA

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SCALE 1:100
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PROJECT NO : 20024

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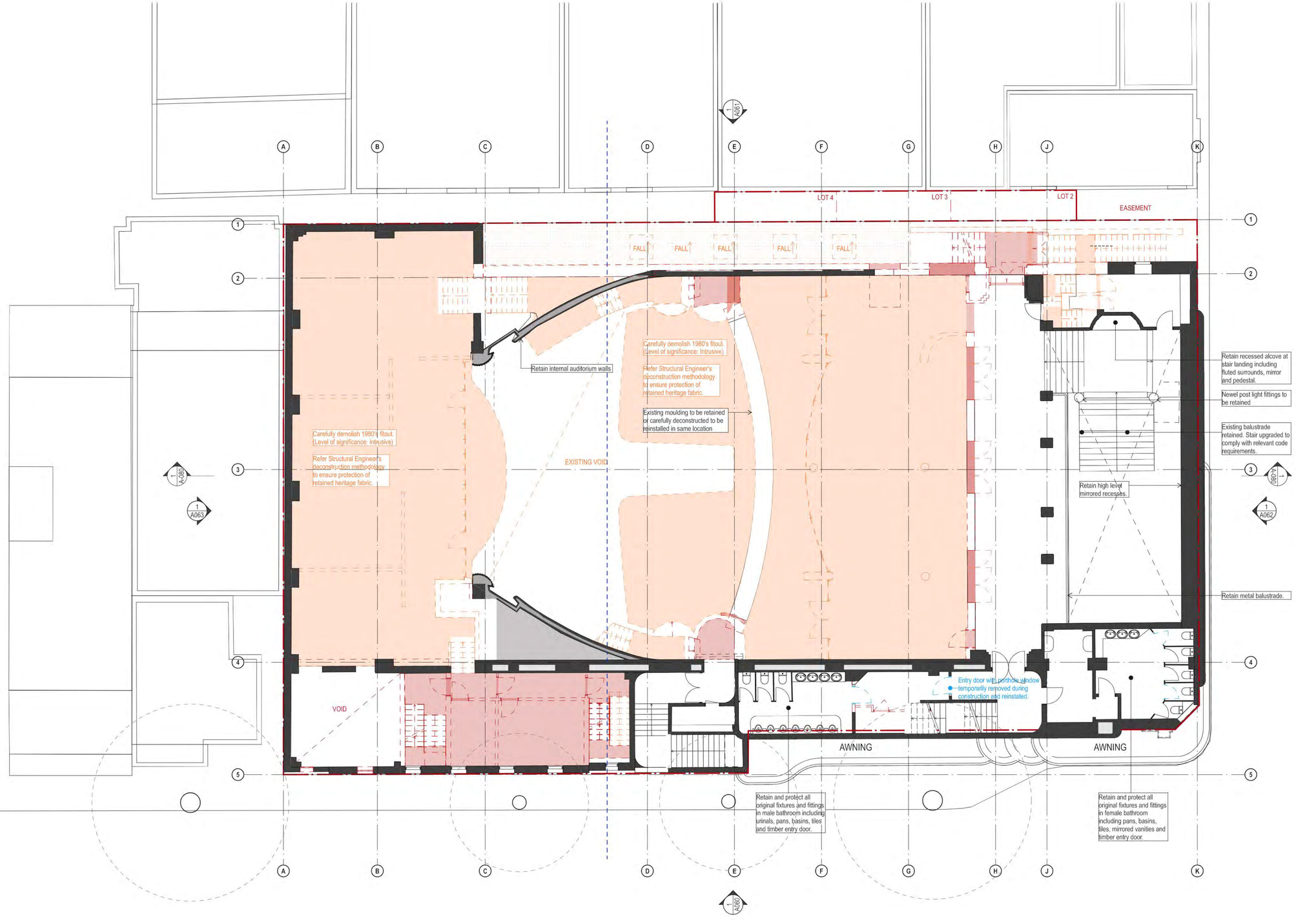
|---|---|---|---|
| **DRAWING TITLE** GROUND DEMOLITION PLAN | | | **DRAWN BY** TS, TL |
| | | | **CHECKED** TS |
| **SCALES** 1:100 @ A1 | | | **DATE** 1/3/2023 |
| **PHASE** DEVELOPMENT APPLICATION | **DRAWING NO** A-053 | | **REV** C |

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PROJECT :
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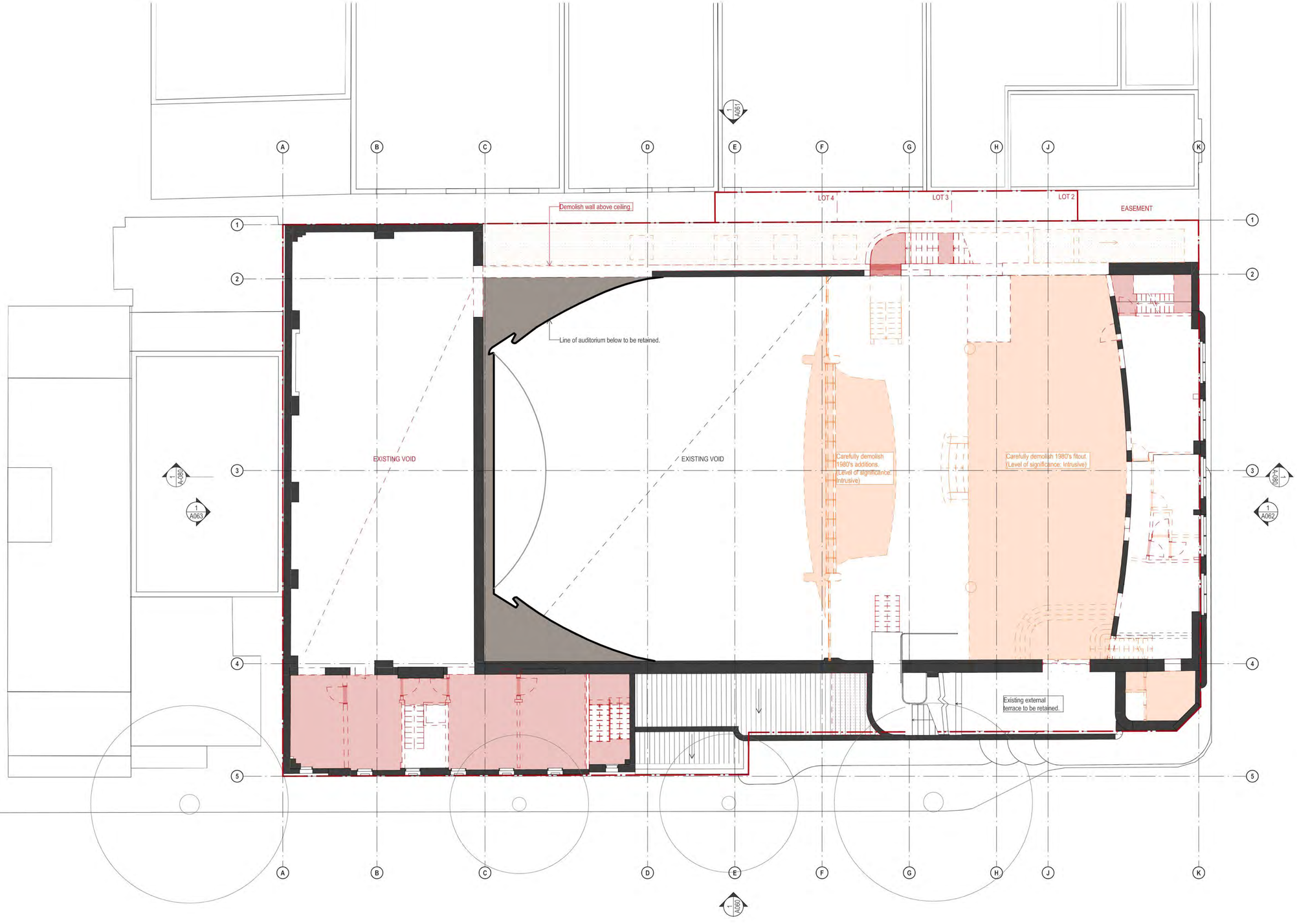
|---|---|---|---|
| **DRAWING TITLE**<br>LEVEL 1 DEMOLITION PLAN | | | **DRAWN BY**<br>TS, TL |
| | | | **CHECKED**<br>TS |
| **SCALES**<br>1:100 @ A1 | | | **DATE**<br>1/3/2023 |
| **PHASE**<br>DEVELOPMENT APPLICATION | **DRAWING NO**<br>A-054 | | **REV**<br>C |

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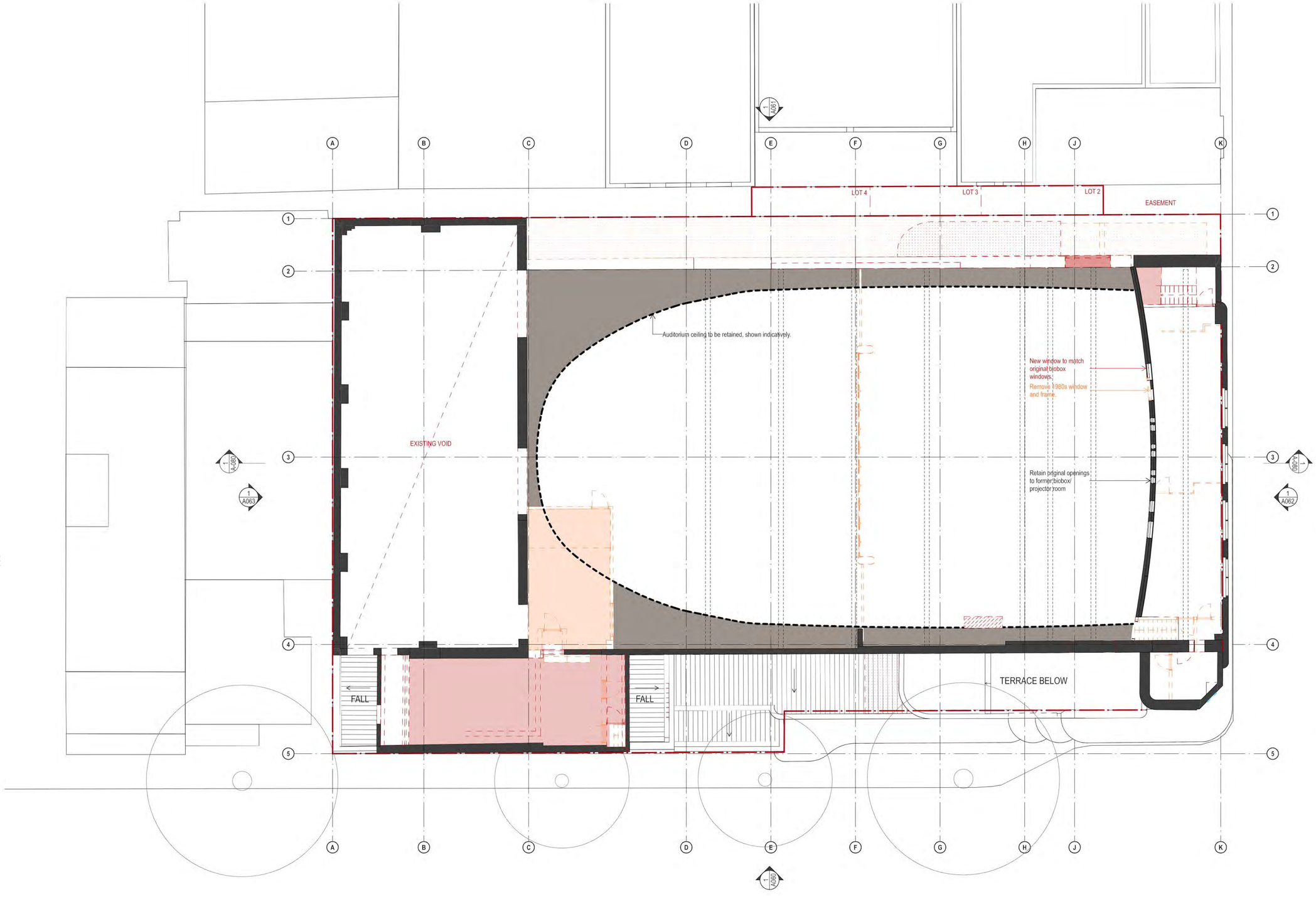
|---|---|---|
| **DRAWING TITLE**<br>LEVEL 2 DEMOLITION PLAN | | **DRAWN BY**<br>TS, TL |
| | | **CHECKED**<br>TS |
| **SCALES**<br>1:100 @ A1 | | **DATE**<br>1/3/2023 |
| **PHASE**<br>DEVELOPMENT APPLICATION | **DRAWING NO**<br>A-055 | **REV**<br>- |




## DEMOLITION LEGEND

- EXISTING TO BE RETAINED
- EXISTING ROOF TO BE DEMOLISHED
- EXISTING ROOF DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING SLAB FLOOR TO BE DEMOLISHED
- EXISTING SLAB FLOOR DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING ELEMENTS TO BE DEMOLISHED
- EXISTING ELEMENTS DATED 1980s OR LATER TO BE DEMOLISHED
- EXTENT OF EXCAVATION
- EXISTING ELEMENTS TO BE CAREFULLY DECONSTRUCTED AND STORED FOR FUTURE USE

**NOTES:**

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- REFER TO PART 5.2 OF THE STATEMENT OF HERITAGE IMPACT FOR THE GRADINGS OF SIGNIFICANCE.

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 01 MAR 2023 | A | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

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SCALE 1:100
0 1 2 3 4 5m

PROJECT NO : 20024

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**DRAWING TITLE**
LEVEL 3 DEMOLITION PLAN

**DRAWN BY** TS, TL

**CHECKED** TS

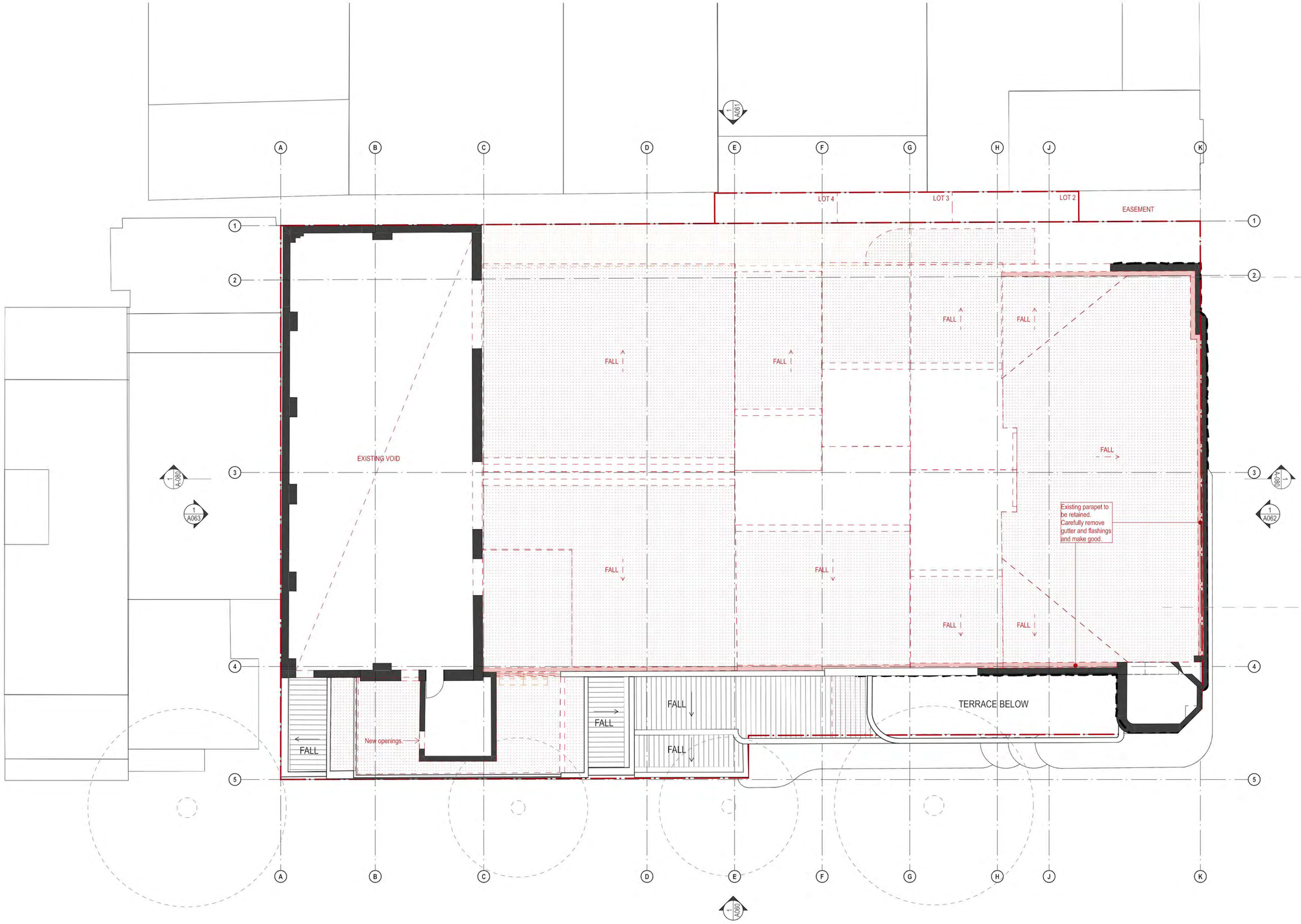
**SCALES** 1:100 @ A1

**DATE** 1/3/2023

**PHASE** DEVELOPMENT APPLICATION

**DRAWING NO** A-056

**REV** A

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- EXISTING TO BE RETAINED
- EXISTING ROOF TO BE DEMOLISHED
- EXISTING ROOF DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING SLAB FLOOR TO BE DEMOLISHED
- EXISTING SLAB FLOOR DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING ELEMENTS TO BE DEMOLISHED
- EXISTING ELEMENTS DATED 1980s OR LATER TO BE DEMOLISHED
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| 01 MAR 2023 | A | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m

PROJECT NO : 20024

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**DRAWING TITLE**
LEVEL 4 DEMOLITION PLAN

**SCALES** 1:100 @ A1

**PHASE** DEVELOPMENT APPLICATION

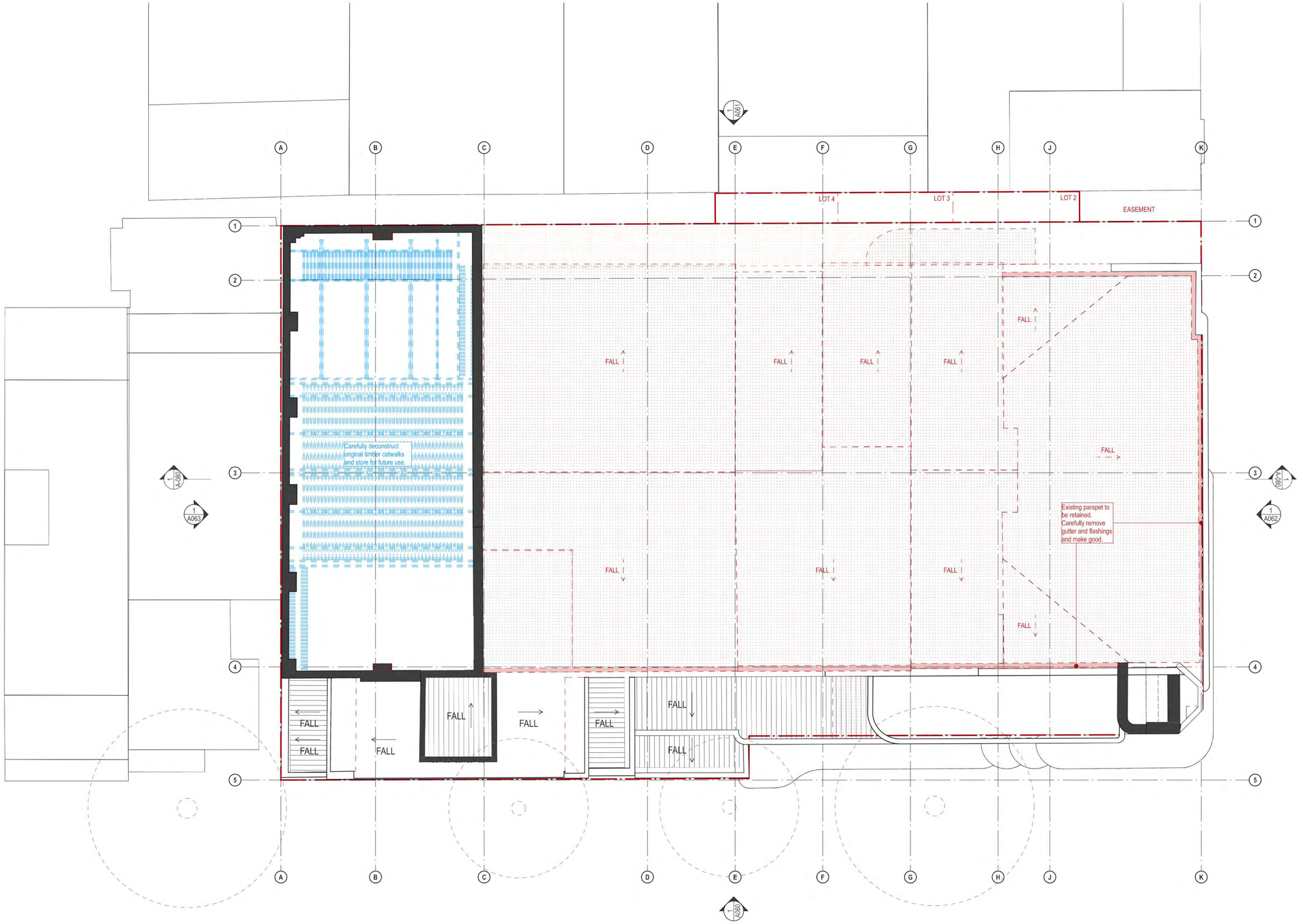
**DRAWING NO** A-057

**REV** A

**DRAWN BY** TS, TL

**CHECKED** TS

**DATE** 1/3/2023




## DEMOLITION LEGEND

- EXISTING TO BE RETAINED
- EXISTING ROOF TO BE DEMOLISHED
- EXISTING ROOF DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING SLAB FLOOR TO BE DEMOLISHED
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- EXISTING ELEMENTS TO BE DEMOLISHED
- EXISTING ELEMENTS DATED 1980s OR LATER TO BE DEMOLISHED
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| 01 MAR 2023 | A | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

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SCALE 1:100
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PROJECT NO : 20024

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**DRAWING TITLE**
LEVEL 5 DEMOLITION PLAN

**DRAWN BY** TS, TL

**CHECKED** TS

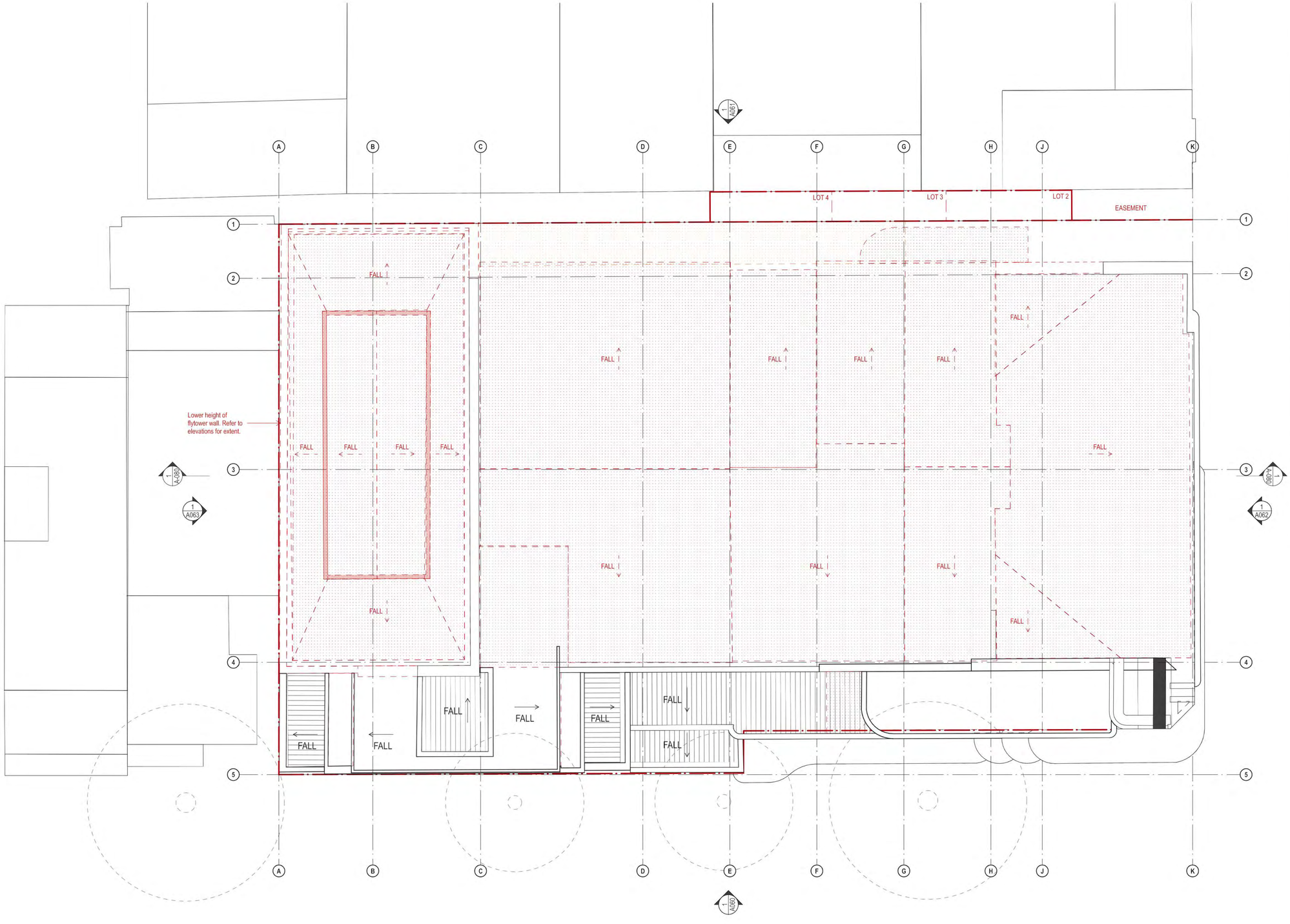
**SCALES** 1:100 @ A1

**DATE** 1/3/2023

**PHASE** DEVELOPMENT APPLICATION

**DRAWING NO** A-058

**REV** A




## DEMOLITION LEGEND

- EXISTING TO BE RETAINED
- EXISTING ROOF TO BE DEMOLISHED
- EXISTING ROOF DATED 1980s OR LATER TO BE DEMOLISHED
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| DATE | REV | DESCRIPTION: |
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PROJECT :
THE MINERVA

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SCALE 1:100
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PROJECT NO : 20024

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| | | |
|---|---|---|
| **DRAWING TITLE**<br>ROOF DEMOLITION PLAN | | **DRAWN BY**<br>TS, TL |
| | | **CHECKED**<br>TS |
| **SCALES**<br>1:100 @ A1 | | **DATE**<br>1/3/2023 |
| **PHASE**<br>DEVELOPMENT APPLICATION | **DRAWING NO**<br>A-059 | **REV**<br>- |

## DEMOLITION LEGEND

- EXISTING TO BE RETAINED
- EXISTING CEILING TO BE DEMOLISHED
- EXISTING CEILING DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING ELEMENTS TO BE DEMOLISHED
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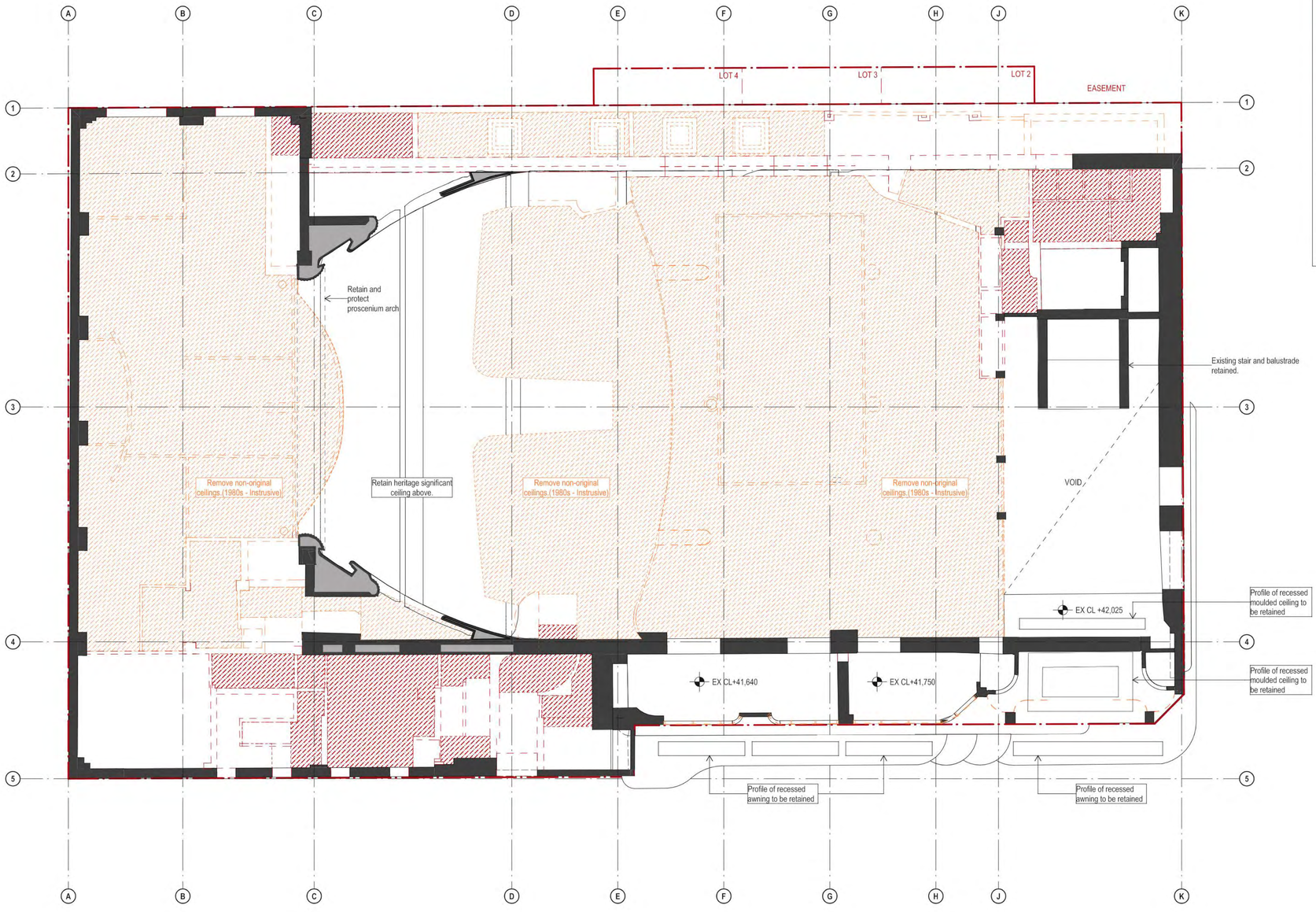


| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | A | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

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SCALE 1:100
1 0 1 2 3 4 5m

PROJECT NO : 20024

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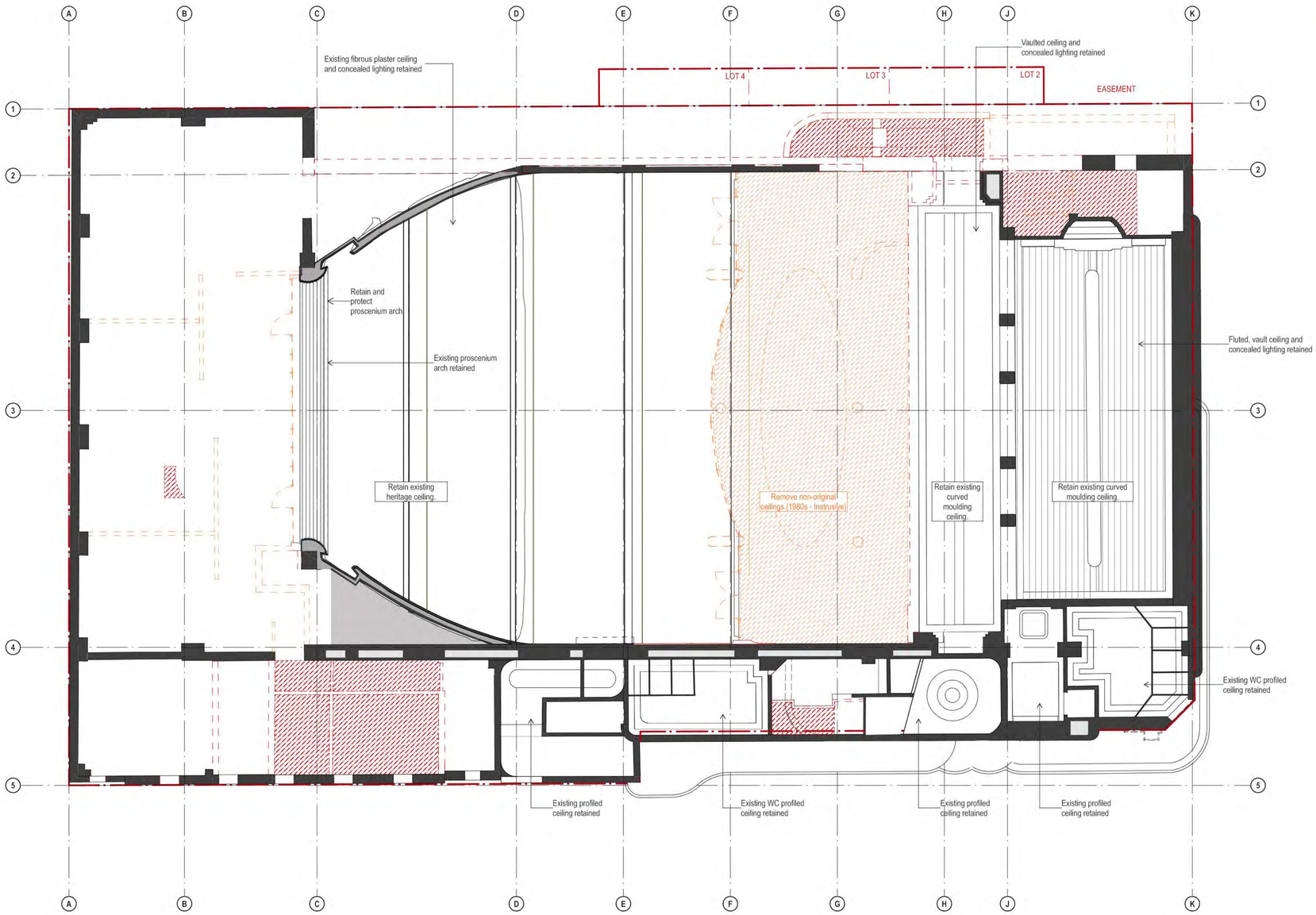
| | | |
|---|---|---|
| **DRAWING TITLE**<br>GROUND RCP DEMOLITION | | **DRAWN BY**<br>TS, TL |
| | | **CHECKED**<br>TS |
| **SCALES**<br>1:100 @ A1 | | **DATE**<br>1/3/2023 |
| **PHASE**<br>DEVELOPMENT APPLICATION | **DRAWING NO**<br>A-060 | **REV**<br>A |




## DEMOLITION LEGEND

- EXISTING TO BE RETAINED
- EXISTING CEILING TO BE DEMOLISHED
- EXISTING CEILING DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING ELEMENTS TO BE DEMOLISHED
- EXISTING ELEMENTS DATED 1980s OR LATER TO BE DEMOLISHED

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| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

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SCALE 1:100
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PROJECT NO : 20024

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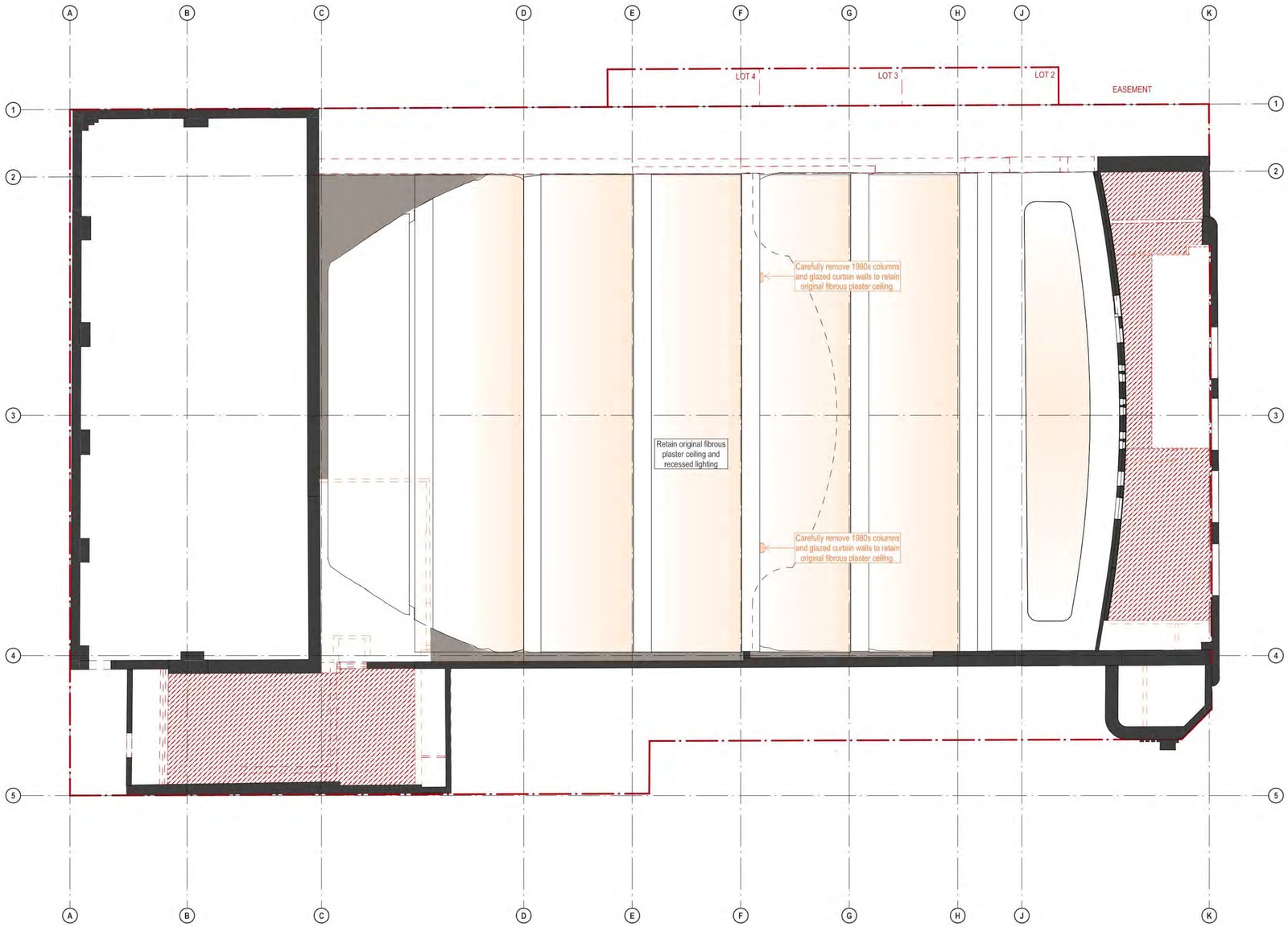
| | | |
|---|---|---|
| **DRAWING TITLE** LEVEL 1 RCP DEMOLITION | | **DRAWN BY** TS, TL |
| | | **CHECKED** TS |
| **SCALES** 1:100 @ A1 | | **DATE** 1/3/2023 |
| **PHASE** DEVELOPMENT APPLICATION | **DRAWING NO** A-061 | **REV** - |




## DEMOLITION LEGEND

- EXISTING TO BE RETAINED
- EXISTING CEILING TO BE DEMOLISHED
- EXISTING CEILING DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING ELEMENTS TO BE DEMOLISHED
- EXISTING ELEMENTS DATED 1980s OR LATER TO BE DEMOLISHED

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| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22 JUL 2021 | - | DEVELOPMENT APPLICATION |
| 01 MAR 2023 | A | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

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SCALE 1:100
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PROJECT NO : 20024


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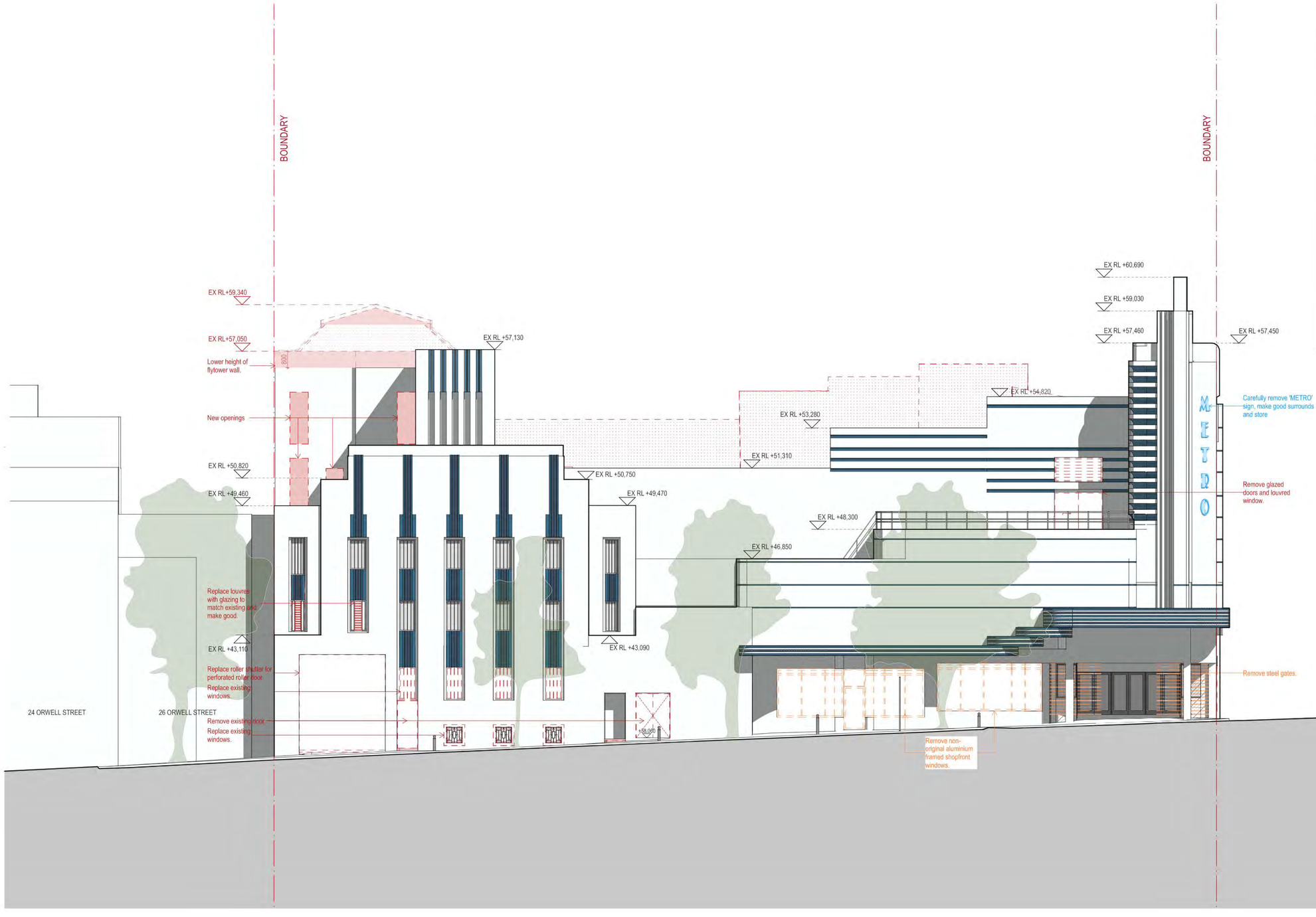
| | | |
|---|---|---|
| **DRAWING TITLE** LEVEL 3 RCP DEMOLITION | | **DRAWN BY** TS, TL |
| | | **CHECKED** TS |
| **SCALES** 1:100 @ A1 | | **DATE** 1/3/2023 |
| **PHASE** DEVELOPMENT APPLICATION | **DRAWING NO** A-062 | **REV** A |




## DEMOLITION LEGEND

- EXISTING TO BE RETAINED
- EXISTING ROOF TO BE DEMOLISHED
- PARTIAL EXISTING WALL TO BE DEMOLISHED
- EXISTING ELEMENTS TO BE DEMOLISHED
- EXISTING ELEMENTS TO BE CAREFULLY DECONSTRUCTED AND STORED FOR FUTURE USE

**NOTES:**

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- REFER TO PART 5.2 OF THE STATEMENT OF HERITAGE IMPACT FOR THE GRADINGS OF SIGNIFICANCE.

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 29.NOV.2022 | A | DEVELOPMENT APPLICATION |
| 01 MAR 2023 | B | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m
PROJECT NO : 20024

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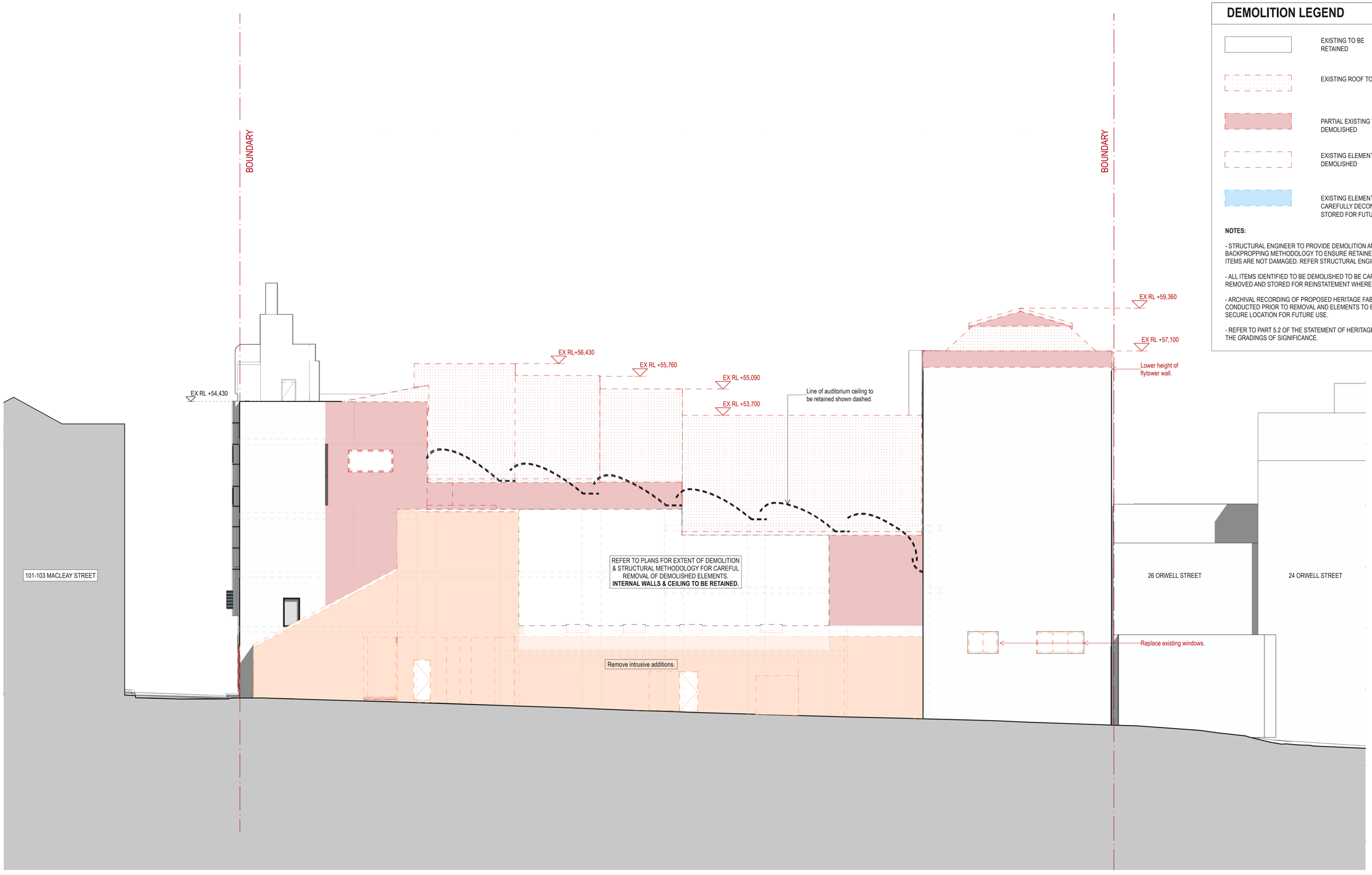
**DRAWING TITLE**
DEMOLITION SOUTH ELEVATION

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 1/3/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-070
**REV** B

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| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL 2021 | - | DEVELOPMENT APPLICATION |
| 29.NOV.2022 | A | DEVELOPMENT APPLICATION |
| 01 MAR 2023 | B | DEVELOPMENT APPLICATION |
| 27 APR 2023 | C | DEVELOPMENT APPLICATION |

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PROJECT :
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PROJECT NO : 20024

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**DRAWING TITLE**
DEMOLITION NORTH ELEVATION

**DRAWN BY** TS, TL

**CHECKED** TS

**SCALES** 1:100 @ A1

**DATE** 1/5/2023

**PHASE** DEVELOPMENT APPLICATION

**DRAWING NO** A-071

**REV** C

## DEMOLITION LEGEND

- EXISTING TO BE RETAINED
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| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | A | DEVELOPMENT APPLICATION |
| 29.NOV.2022 | B | DEVELOPMENT APPLICATION |
| 01 MAR 2023 | C | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m
PROJECT NO : 20024

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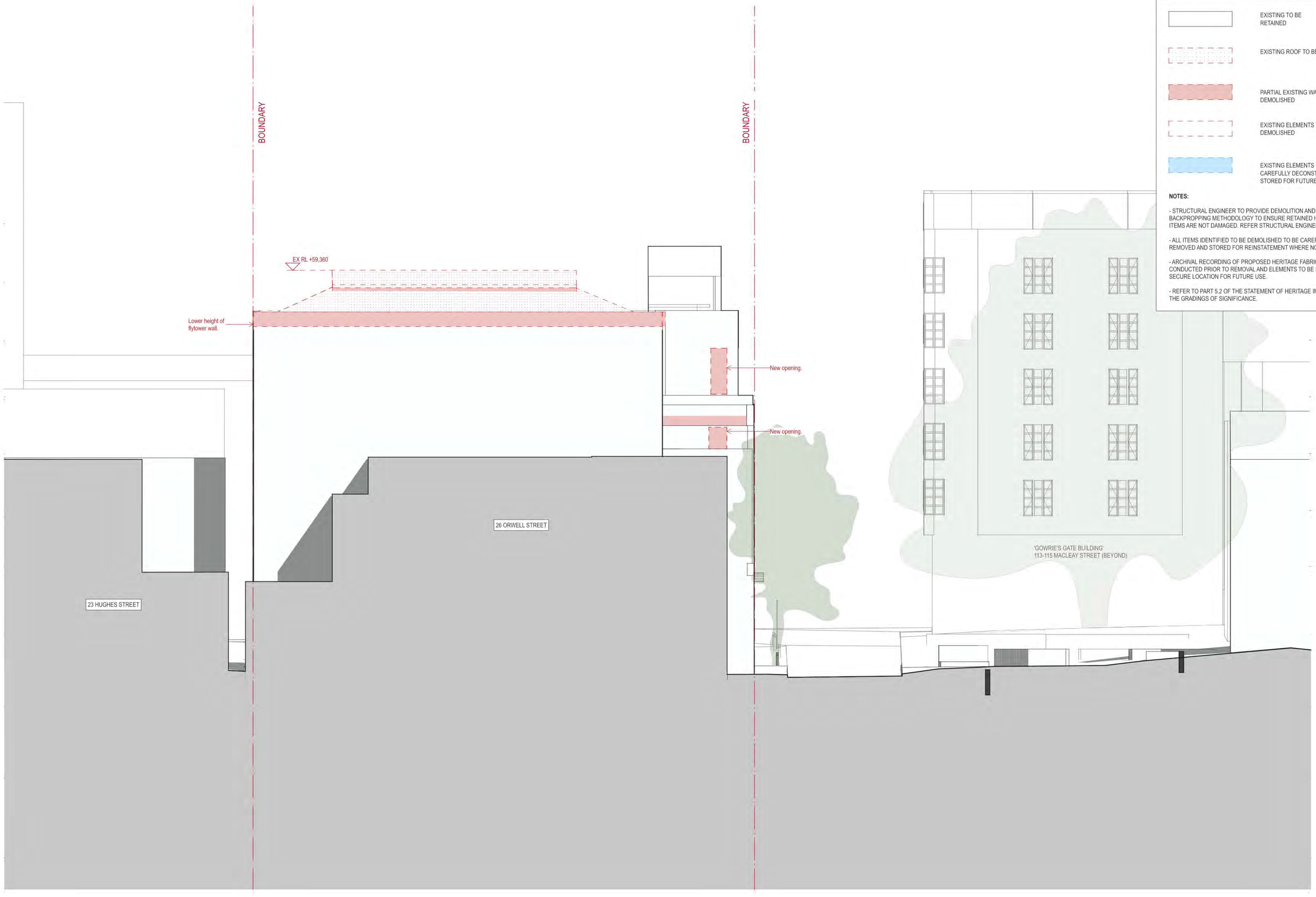
**DRAWING TITLE**
DEMOLITION EAST ELEVATION

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 1/3/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-072
**REV** C




## DEMOLITION LEGEND

- EXISTING TO BE RETAINED
- EXISTING ROOF TO BE DEMOLISHED
- PARTIAL EXISTING WALL TO BE DEMOLISHED
- EXISTING ELEMENTS TO BE DEMOLISHED
- EXISTING ELEMENTS TO BE CAREFULLY DECONSTRUCTED AND STORED FOR FUTURE USE

**NOTES:**

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| 01 MAR 2023 | A | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m

PROJECT NO : 20024

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**DRAWING TITLE**
DEMOLITION WEST ELEVATION

**DRAWN BY** TS, TL

**CHECKED** TS

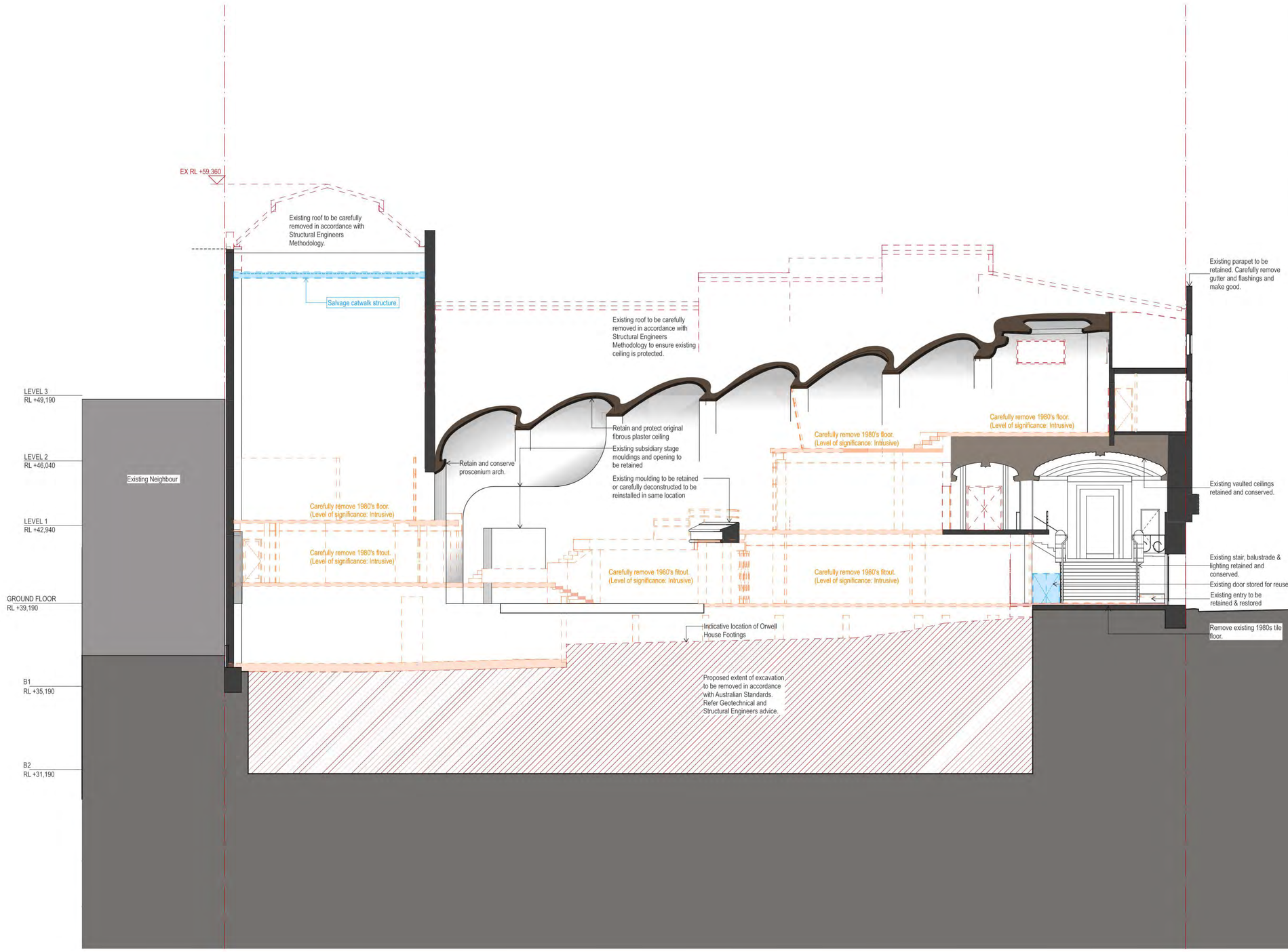
**SCALES** 1:100 @ A1

**DATE** 1/3/2023

**PHASE** DEVELOPMENT APPLICATION

**DRAWING NO** A-073

**REV** A




## DEMOLITION LEGEND

- EXISTING TO BE RETAINED
- EXISTING ROOF TO BE DEMOLISHED
- EXISTING ROOF DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING SLAB FLOOR TO BE DEMOLISHED
- EXISTING SLAB FLOOR DATED 1980s OR LATER TO BE DEMOLISHED
- EXISTING ELEMENTS TO BE DEMOLISHED
- EXISTING ELEMENTS DATED 1980s OR LATER TO BE DEMOLISHED
- EXTENT OF EXCAVATION
- EXISTING ELEMENTS TO BE CAREFULLY DECONSTRUCTED AND STORED FOR FUTURE USE

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| 01 MAR 2023 | D | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0.5 0m 0 1 1 2 2 3 4 4 5m
PROJECT NO : 20024

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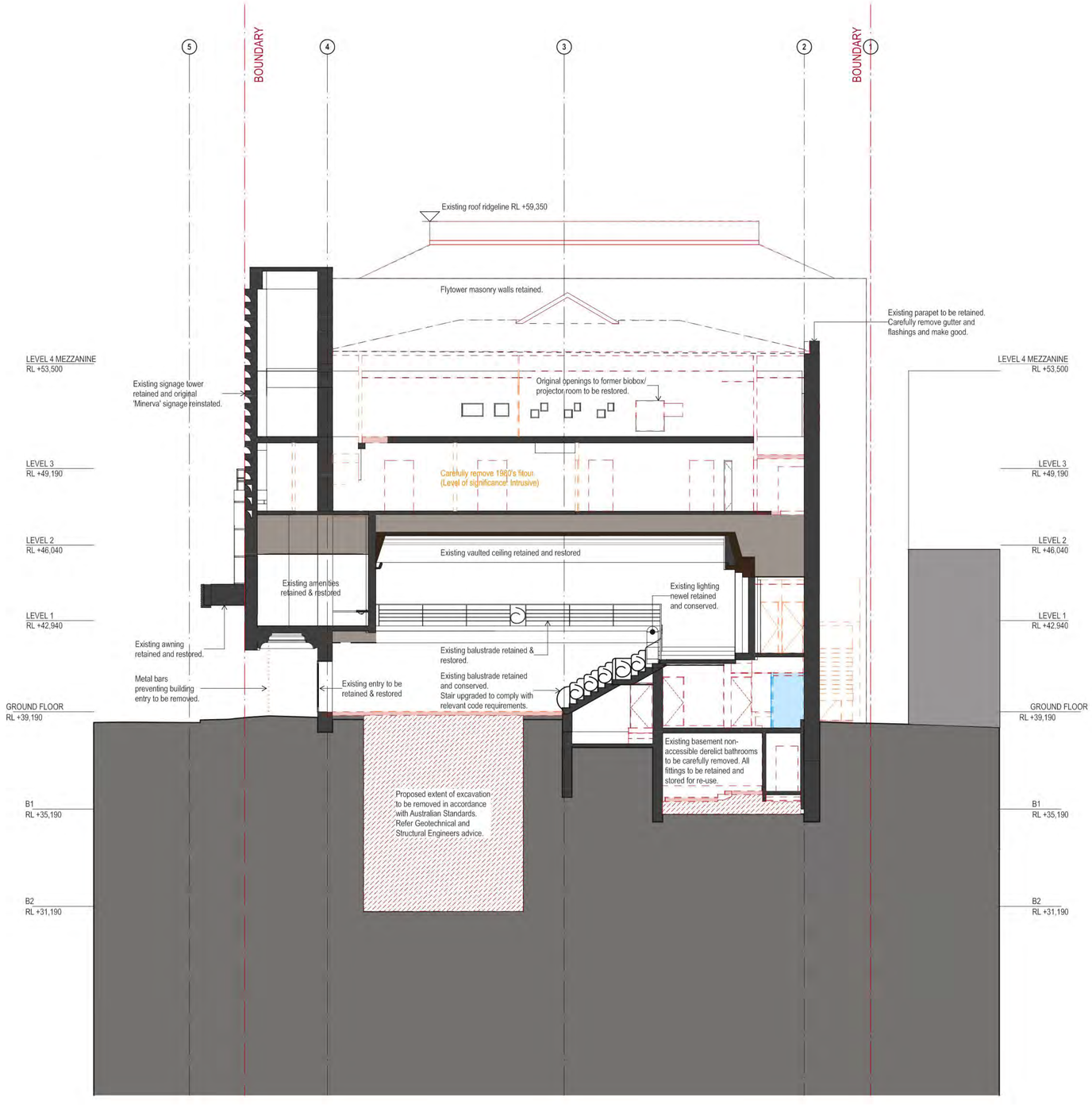
| | | |
|---|---|---|
| DRAWING TITLE: LONG SECTION DEMOLITION | | DRAWN BY: TS, TL |
| | | CHECKED: TS |
| SCALES: 1:100 @ A1 | | DATE: 1/3/2023 |
| PHASE: DEVELOPMENT APPLICATION | DRAWING NO: A-080 | REV: D |

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PROJECT :
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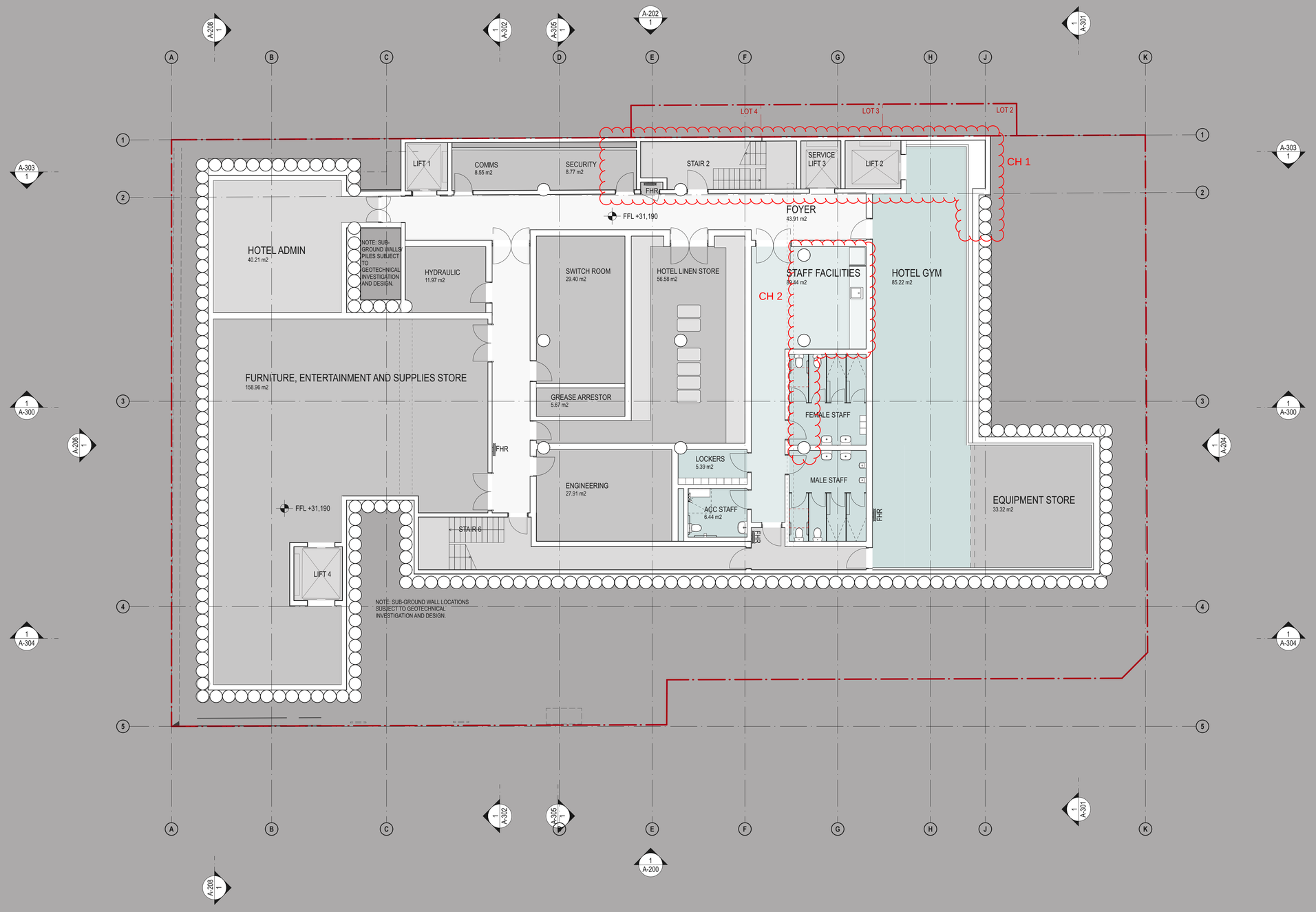
**DRAWING TITLE**
CROSS SECTION A DEMOLITION

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 1/3/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-081
**REV** D




242

| DATE | REV | DESCRIPTION: |
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| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 16.AUG.2021 | A | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | D | DEVELOPMENT APPLICATION |
| 10.FEB.2023 | E | DEVELOPMENT APPLICATION |
| 16 AUG 2023 | F | DEVELOPMENT APPLICATION |

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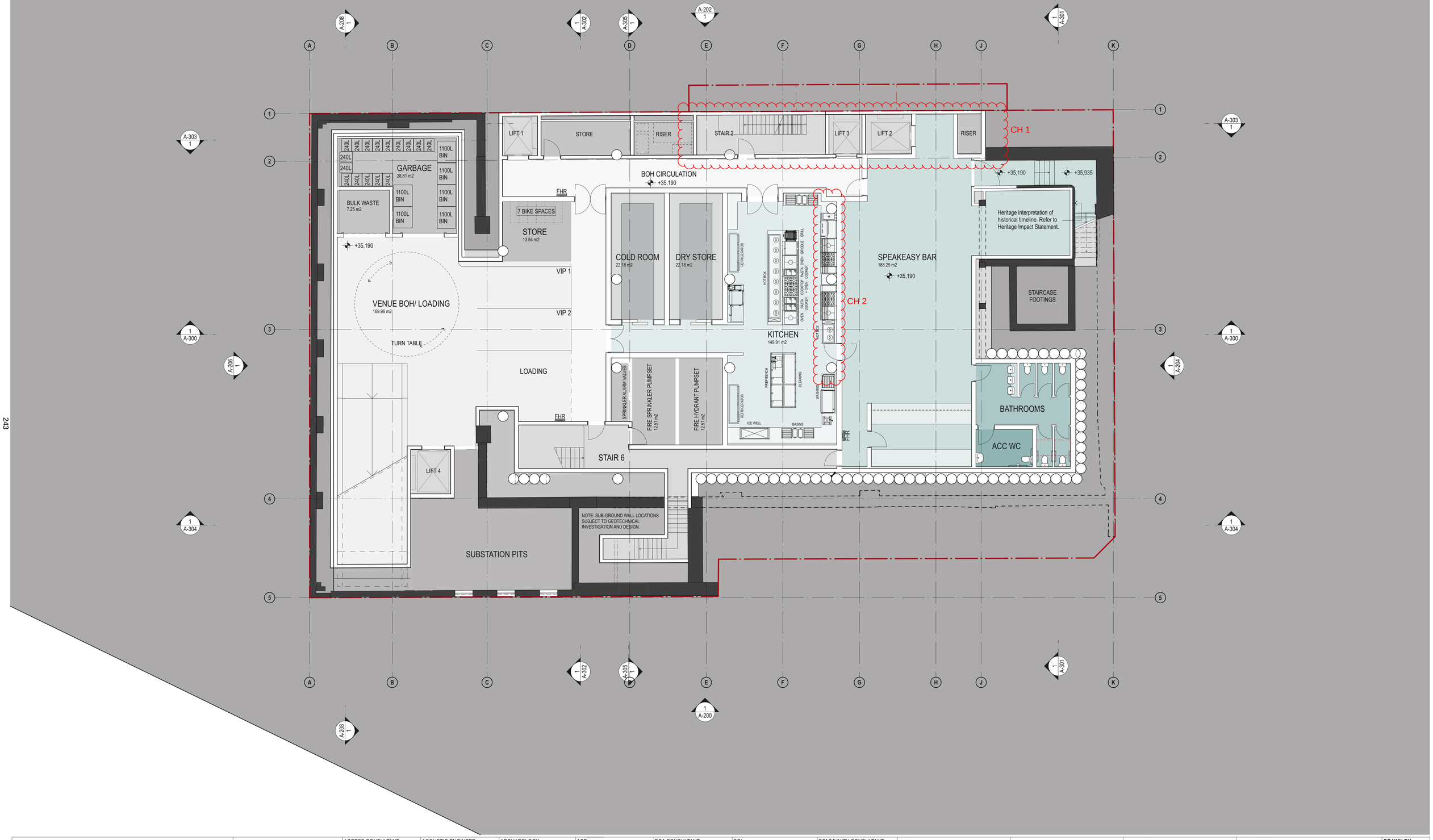
**DRAWING TITLE**
BASEMENT 2 FLOOR PLAN

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 16/8/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-102
**REV** F




243

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 16.AUG.2021 | A | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | D | DEVELOPMENT APPLICATION |
| 16 AUG 2023 | E | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

N

SCALE 1:100
0 1 2 3 4 5m

PROJECT NO : 20024

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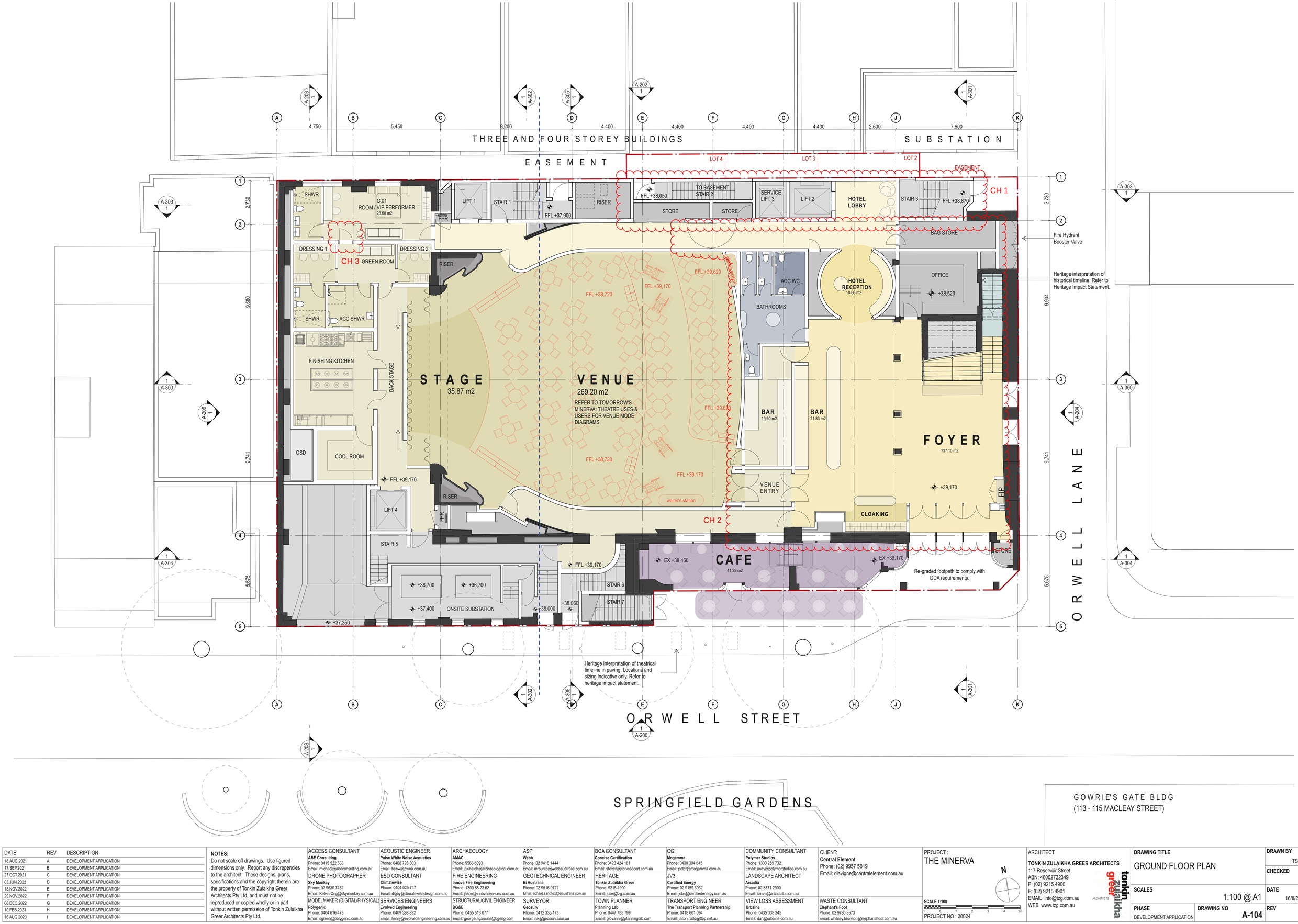
| | | | |
|---|---|---|---|
| **DRAWING TITLE**<br>BASEMENT 1 FLOOR PLAN | | | **DRAWN BY**<br>TS, TL |
| | | | **CHECKED**<br>TS |
| **SCALES**<br>1:100 @ A1 | | | **DATE**<br>16/8/2023 |
| **PHASE**<br>DEVELOPMENT APPLICATION | **DRAWING NO**<br>A-103 | | **REV**<br>E |




GOWRIE'S GATE BLDG
(113 - 115 MACLEAY STREET)

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 16.AUG.2021 | A | DEVELOPMENT APPLICATION |
| 17.SEP.2021 | B | DEVELOPMENT APPLICATION |
| 27.OCT.2021 | C | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | D | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | E | DEVELOPMENT APPLICATION |
| 29.NOV.2022 | F | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | G | DEVELOPMENT APPLICATION |
| 10.FEB.2023 | H | DEVELOPMENT APPLICATION |
| 16 AUG 2023 | I | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m

PROJECT NO : 20024

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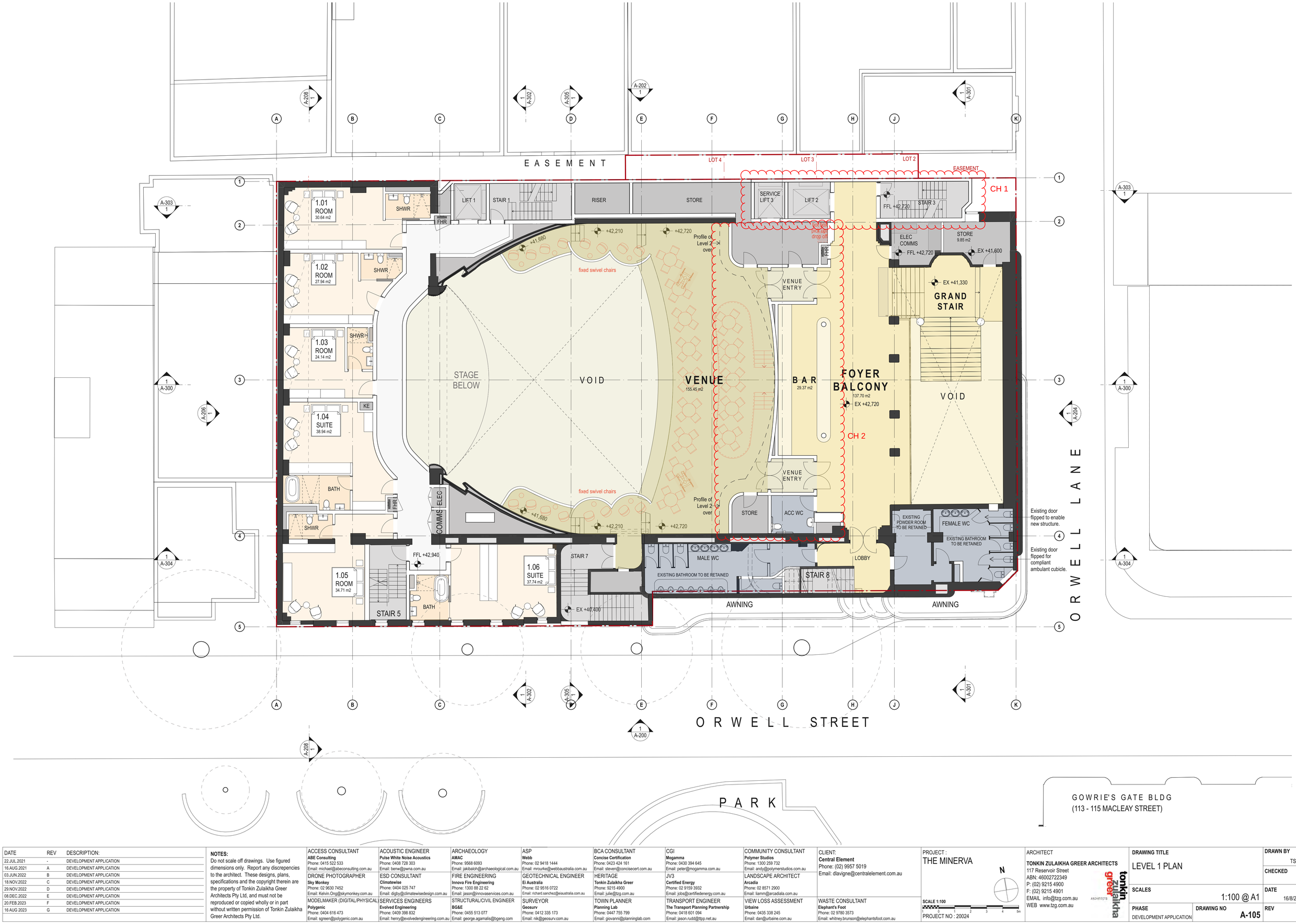
|---|---|---|---|
| **DRAWING TITLE**<br>GROUND FLOOR PLAN | | **DRAWN BY**<br>TS, TL | |
| | | **CHECKED**<br>TS | |
| **SCALES**<br>1:100 @ A1 | | **DATE**<br>16/8/2023 | |
| **PHASE**<br>DEVELOPMENT APPLICATION | **DRAWING NO**<br>A-104 | **REV**<br>I | |




245

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 16.AUG.2021 | A | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 29.NOV.2022 | D | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | E | DEVELOPMENT APPLICATION |
| 20.FEB.2023 | F | DEVELOPMENT APPLICATION |
| 16 AUG 2023 | G | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
1 0 1 2 3 4 5m
PROJECT NO : 20024

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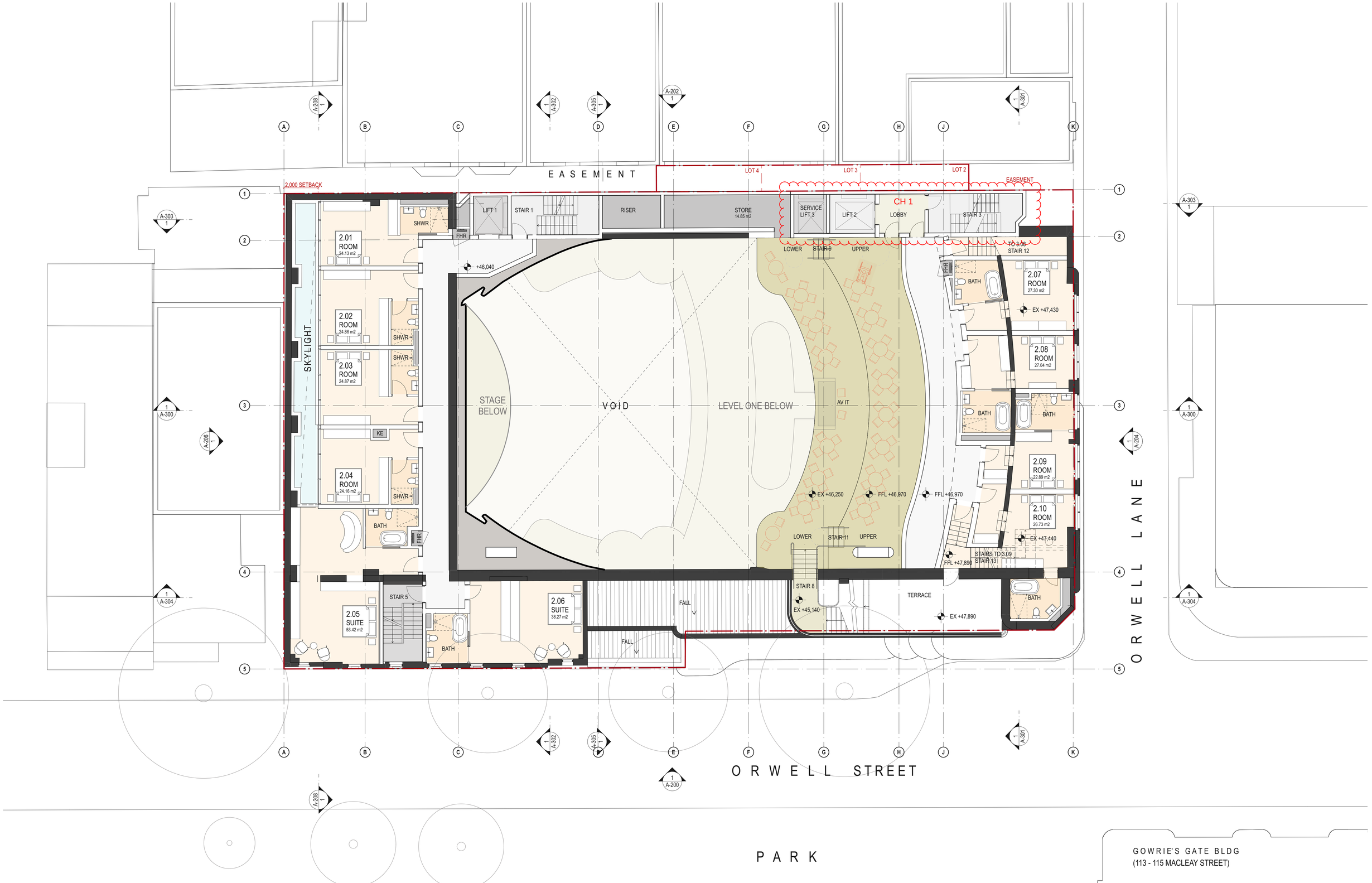
| | | | |
|---|---|---|---|
| **DRAWING TITLE**<br>LEVEL 1 PLAN | | **DRAWN BY**<br>TS, TL | |
| | | **CHECKED**<br>TS | |
| **SCALES**<br>1:100 @ A1 | | **DATE**<br>16/8/2023 | |
| **PHASE**<br>DEVELOPMENT APPLICATION | **DRAWING NO**<br>A-105 | **REV**<br>G | |




246

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 16.AUG.2021 | A | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
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PROJECT :
THE MINERVA

SCALE 1:100
PROJECT NO : 20024


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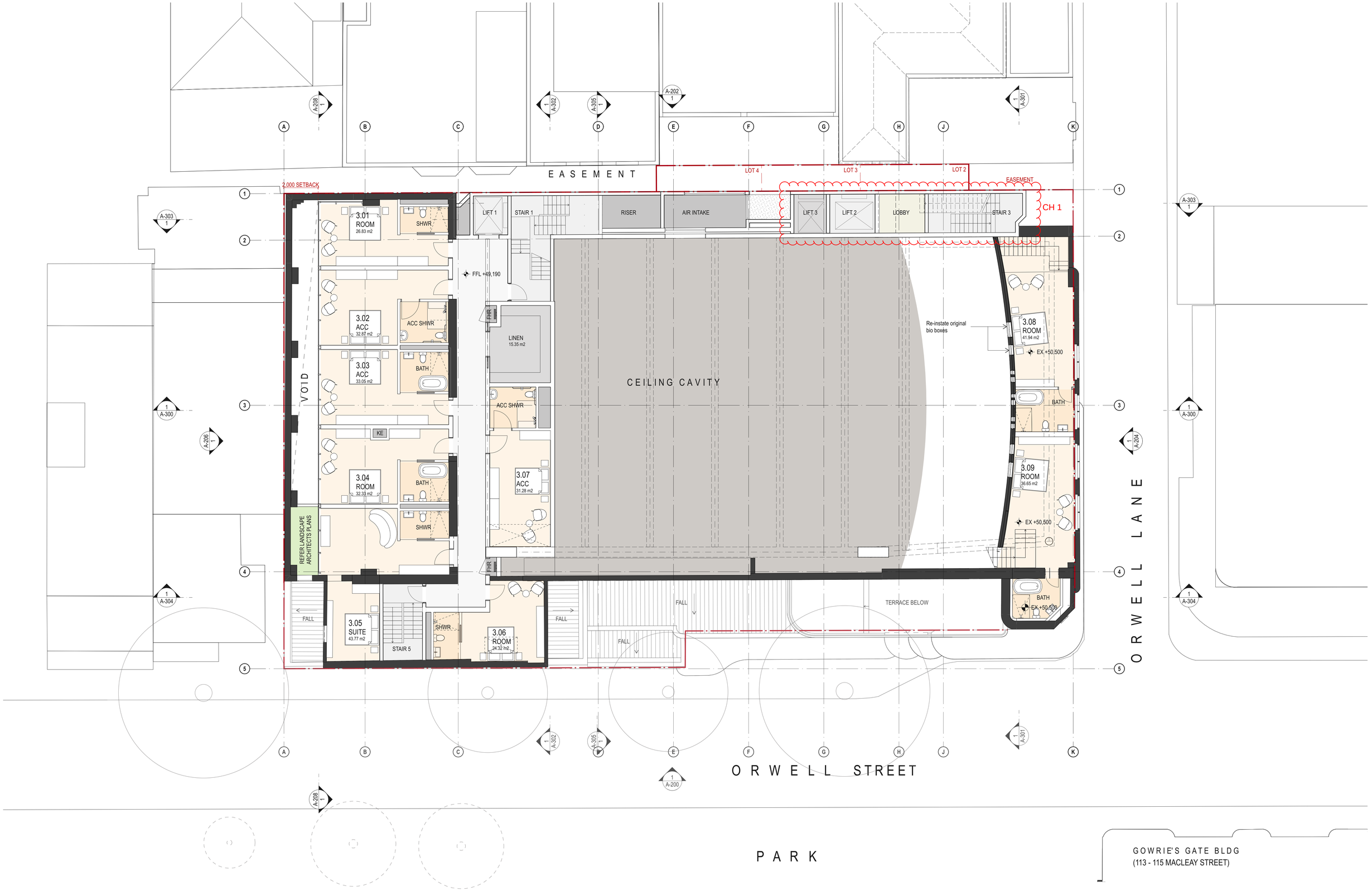
| | |
|---|---|
| **DRAWING TITLE** | LEVEL 2 PLAN |
| **DRAWN BY** | TS, TL |
| **CHECKED** | TS |
| **SCALES** | 1:100 @ A1 |
| **DATE** | 16/8/2023 |
| **PHASE** | DEVELOPMENT APPLICATION |
| **DRAWING NO** | A-106 |
| **REV** | G |






| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | A | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | B | DEVELOPMENT APPLICATION |
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PROJECT :
THE MINERVA

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SCALE 1:100
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PROJECT NO : 20024


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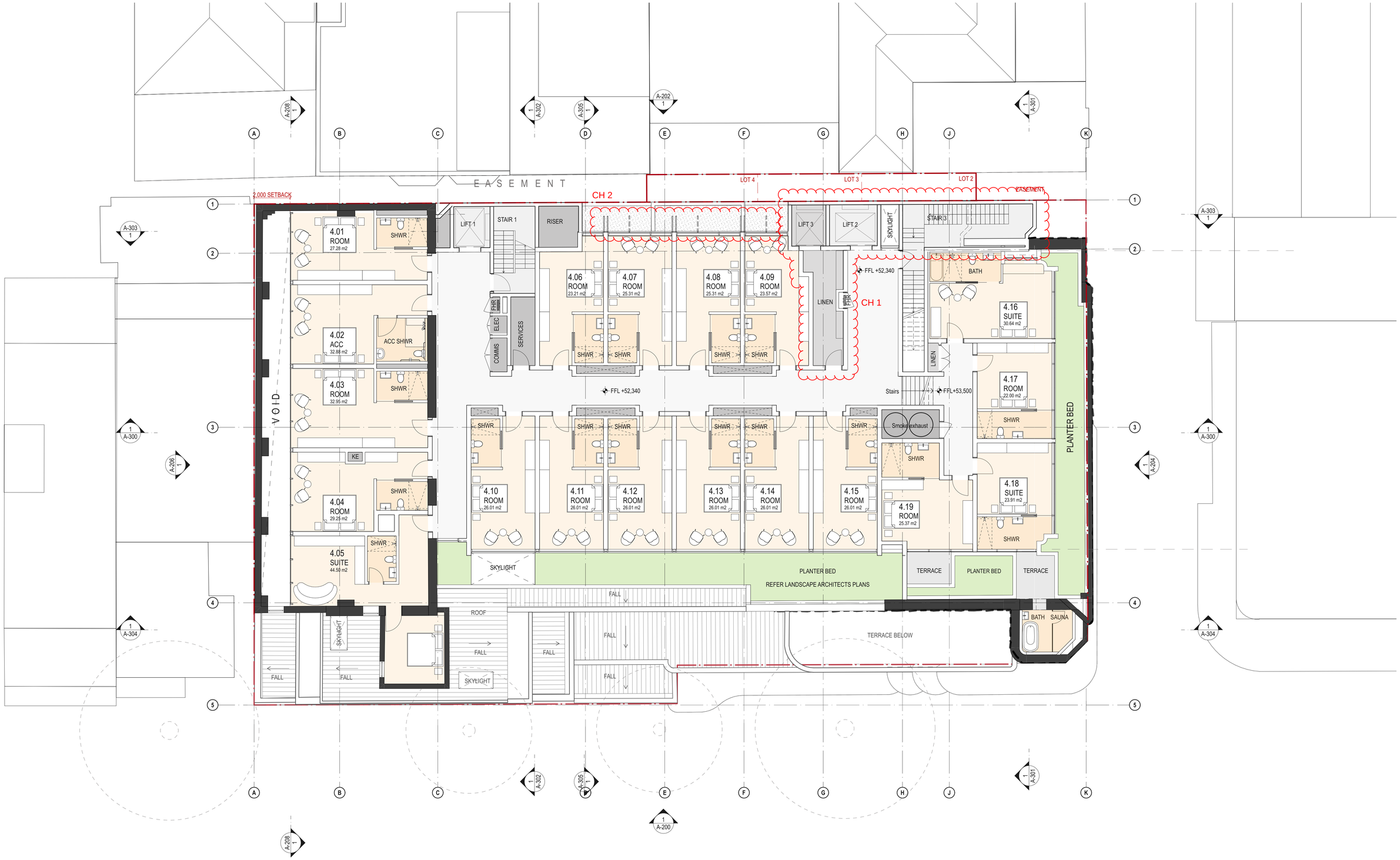
**DRAWING TITLE**
LEVEL 3 PLAN

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 16/8/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-107
**REV** D




GOWRIE'S GATE BLDG
(113 - 115 MACLEAY STREET)

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | A | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | B | DEVELOPMENT APPLICATION |
| 29.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 10.FEB.2023 | D | DEVELOPMENT APPLICATION |
| 16 AUG 2023 | E | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
PROJECT NO : 20024

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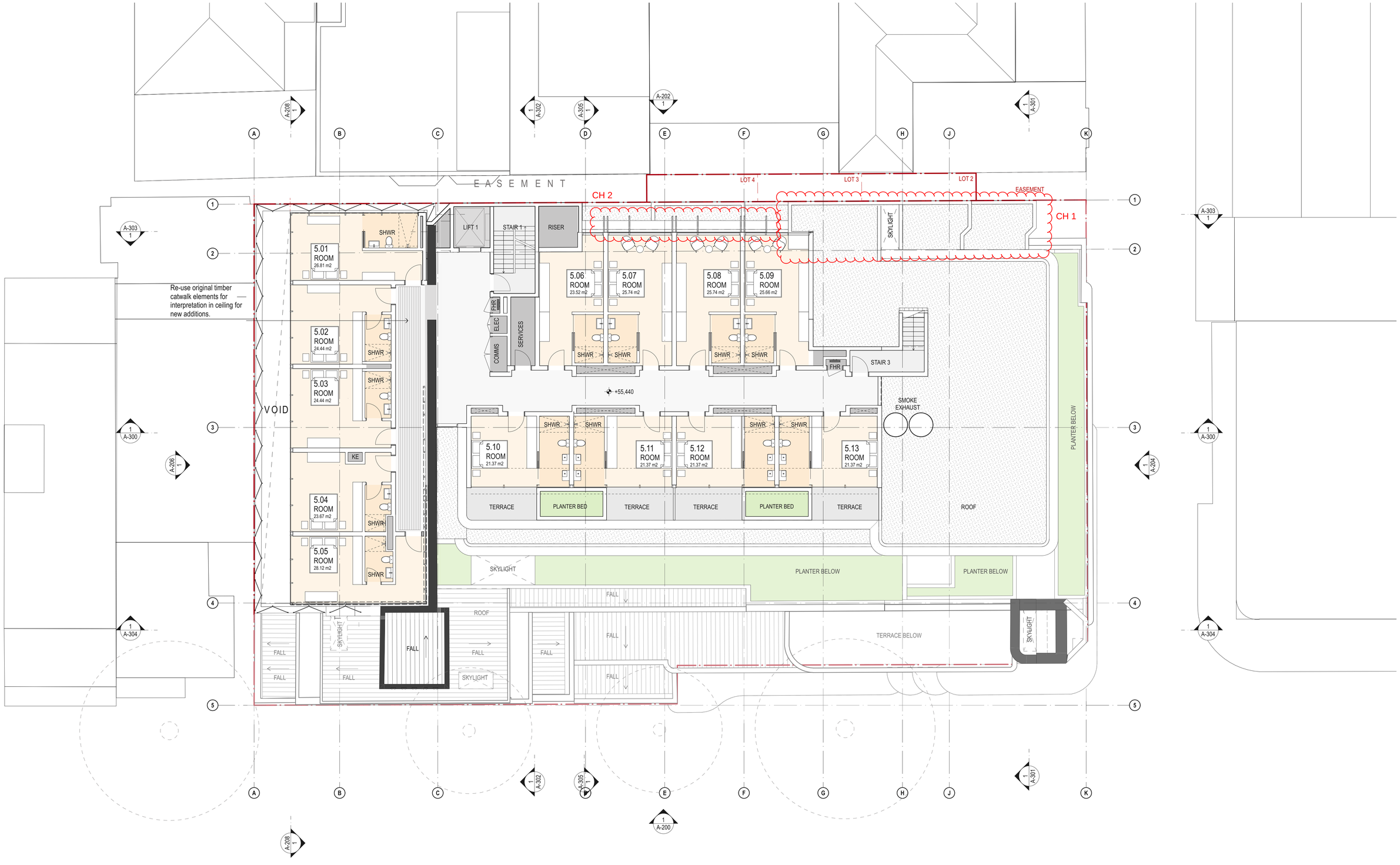
**DRAWING TITLE**
LEVEL 4 PLAN

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 16/8/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-108
**REV** E

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(113 - 115 MACLEAY STREET)

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| 08.DEC.2022 | C | DEVELOPMENT APPLICATION |
| 10.FEB.2023 | D | DEVELOPMENT APPLICATION |
| 20.FEB.2023 | E | DEVELOPMENT APPLICATION |
| 16 AUG 2023 | F | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

N

SCALE 1:100
1 0 1 2 3 4 5m

PROJECT NO : 20024


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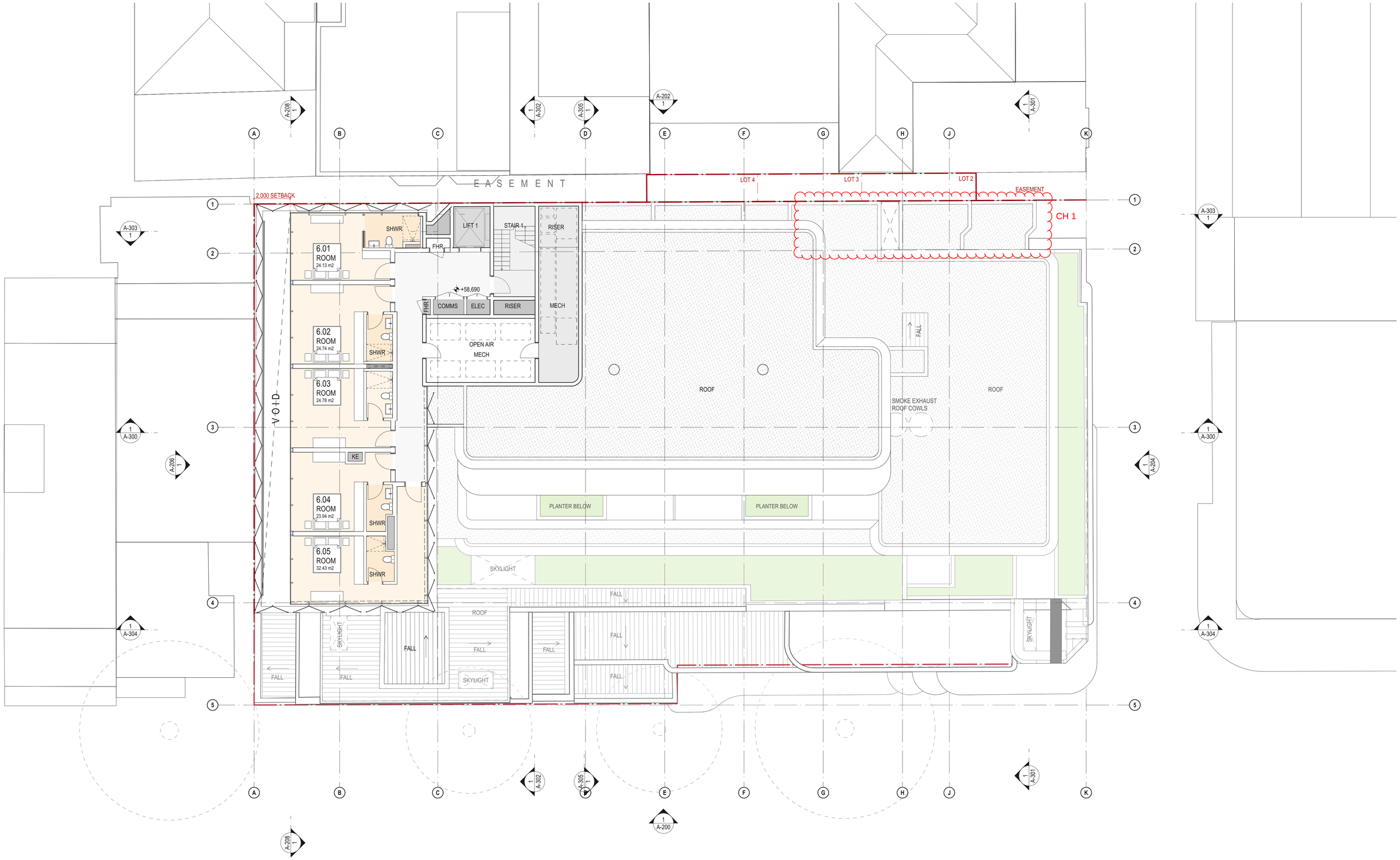
**DRAWING TITLE**
LEVEL 5 PLAN

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 16/8/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-109
**REV** F

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(113 - 115 MACLEAY STREET)

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| 16 AUG 2023 | E | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

N

SCALE 1:100
0 1 2 3 4 5m

PROJECT NO : 20024

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**DRAWING TITLE**
LEVEL 6 ROOF PLAN

**DRAWN BY** TS, TL

**CHECKED** TS

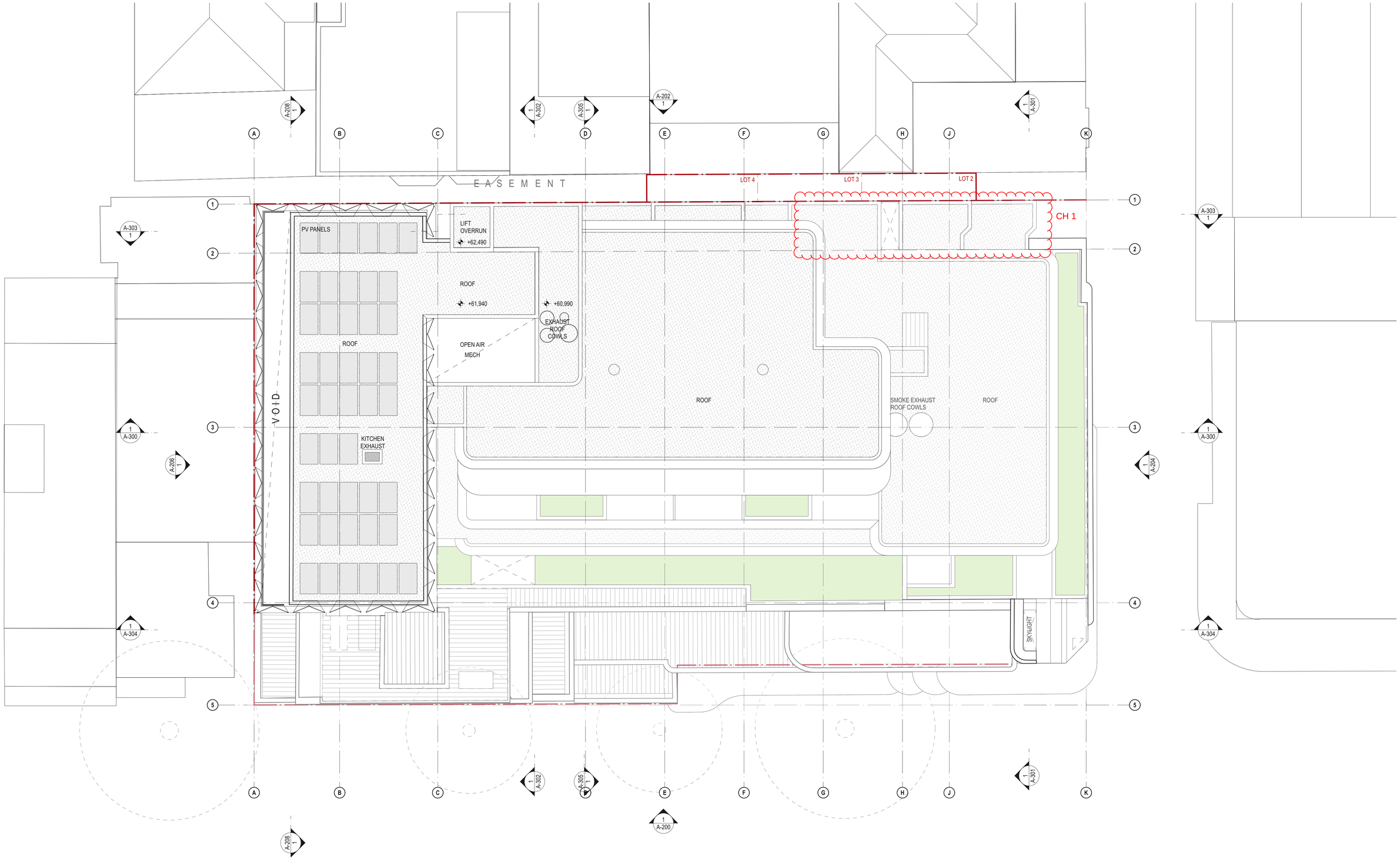
**SCALES** 1:100 @ A1

**DATE** 16/8/2023

**PHASE** DEVELOPMENT APPLICATION

**DRAWING NO** A-110

**REV** E

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PROJECT :
THE MINERVA

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SCALE 1:100
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PROJECT NO : 20024

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**DRAWING TITLE**
ROOF PLAN

**DRAWN BY** TS, TL

**CHECKED** TS

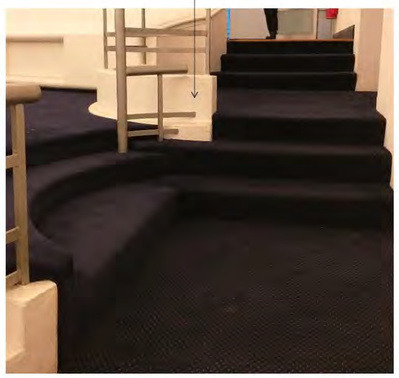
**SCALES** 1:100 @ A1

**DATE** 16/8/2023

**PHASE** DEVELOPMENT APPLICATION

**DRAWING NO** A-111

**REV** D



Existing semi-circular Dress Circle boxes on Level 1

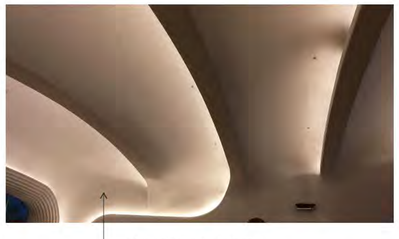


Existing fluted moulding detail at proscenium arch and subsidiary stage openings retained

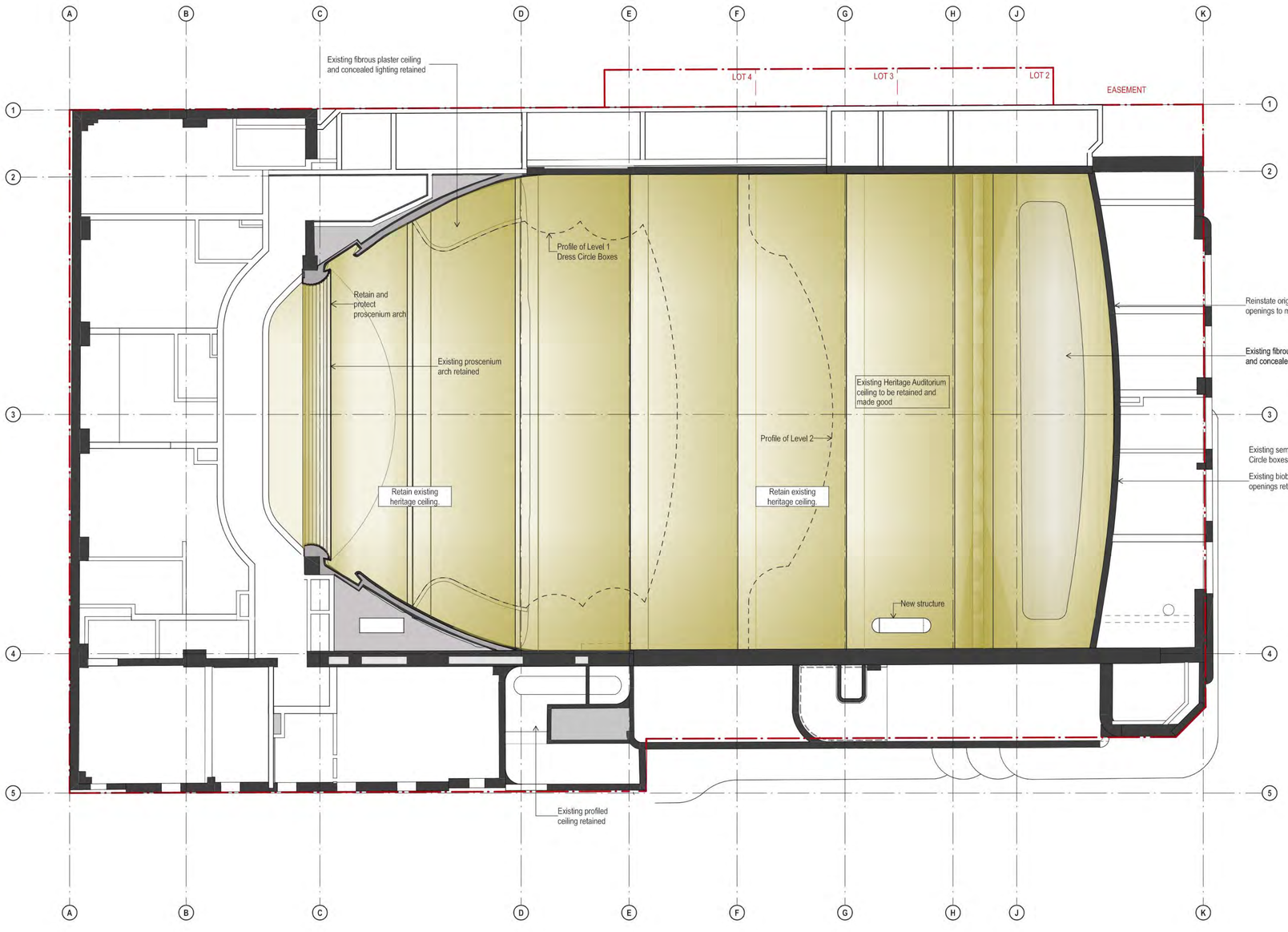


Existing fibrous plaster ceiling and concealed lighting retained

Existing proscenium arch retained



Existing fibrous plaster ceiling and concealed lighting retained






1930s, Opening night at the Minerva Theatre by Max Dupain.
Source: ML, SLNSW, FL19477070.



1939, Interior View of the Minerva Theatre by Max Dupain.
Source: ML, SLNSW, FL19477197.



Existing fibrous plaster ceiling and concealed lighting retained

Reinstate original biobox openings to match original

Existing biobox openings retained

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
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PROJECT :
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SCALE 1:100
1 0 1 2 3 4 5m

PROJECT NO : 20024

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**DRAWING TITLE**
AUDITORIUM RCP PROPOSED GROUND FLOOR - LEVEL 3

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 1/3/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-121
**REV** D

# Attachment B2

## Selected Drawings




| DATE | REV | DESCRIPTION: |
|---|---|---|
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PROJECT :
THE MINERVA

SCALE 1:100
PROJECT NO : 20024


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**DRAWING TITLE**
SOUTH ELEVATION

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 1/3/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-200
**REV** D




| DATE | REV | DESCRIPTION: |
|---|---|---|
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 29.NOV.2022 | D | DEVELOPMENT APPLICATION |
| 20.FEB.2023 | E | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 1 2 3 4 5m
PROJECT NO : 20024


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**DRAWING TITLE**
SOUTH ELEVATION FLYTOWER FACADE

**SCALES** 1:100 @ A1

**PHASE** DEVELOPMENT APPLICATION

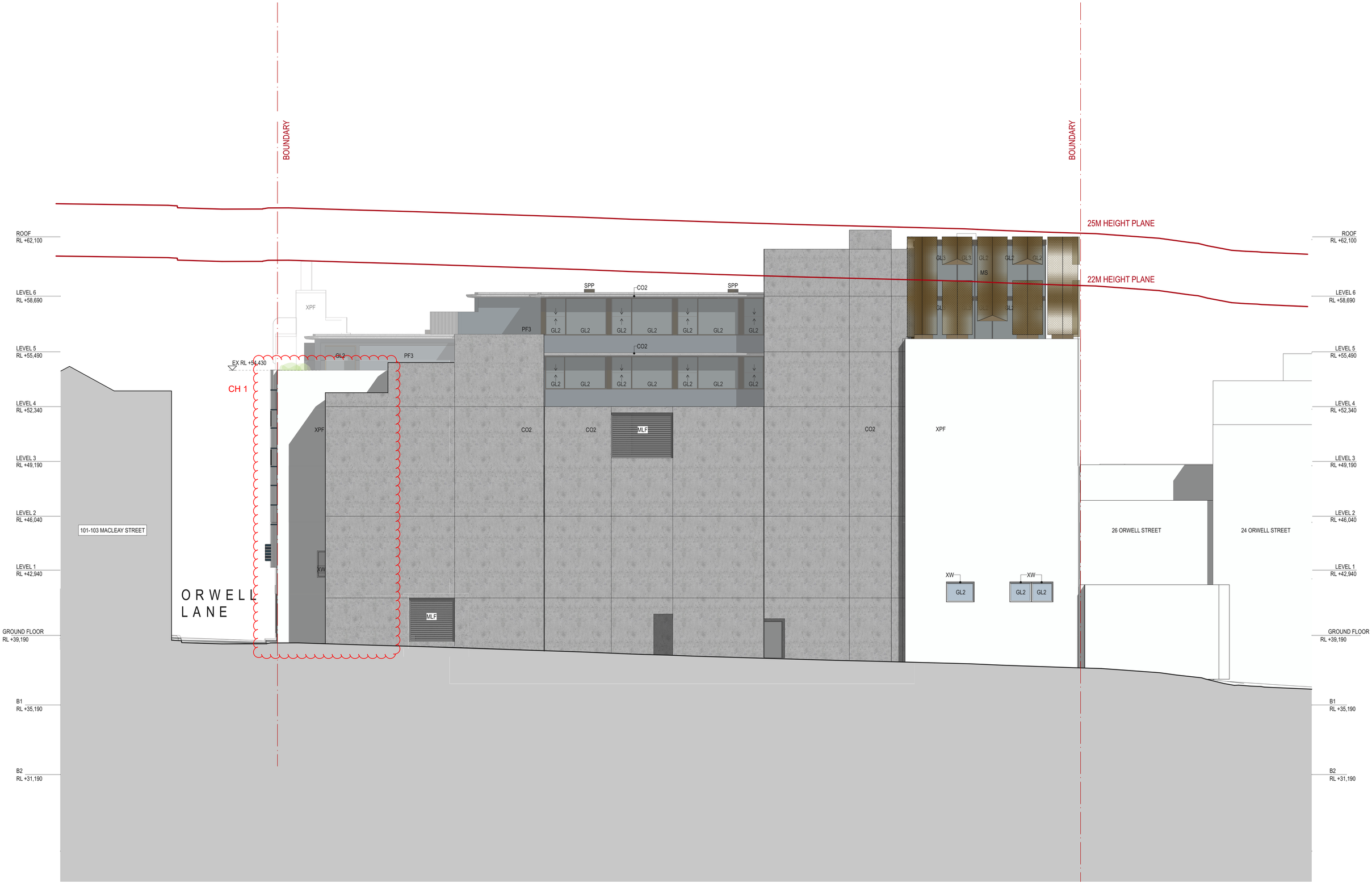
**DRAWING NO** A-201

**DRAWN BY** TS, TL

**CHECKED** TS

**DATE** 1/3/2023

**REV** E

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| DATE | REV | DESCRIPTION: |
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| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
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| 18.NOV.2022 | B | DEVELOPMENT APPLICATION |
| 29.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 10.FEB.2023 | D | DEVELOPMENT APPLICATION |
| 16 AUG 2023 | E | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
1 0 1 2 3 4 5m
PROJECT NO : 20024

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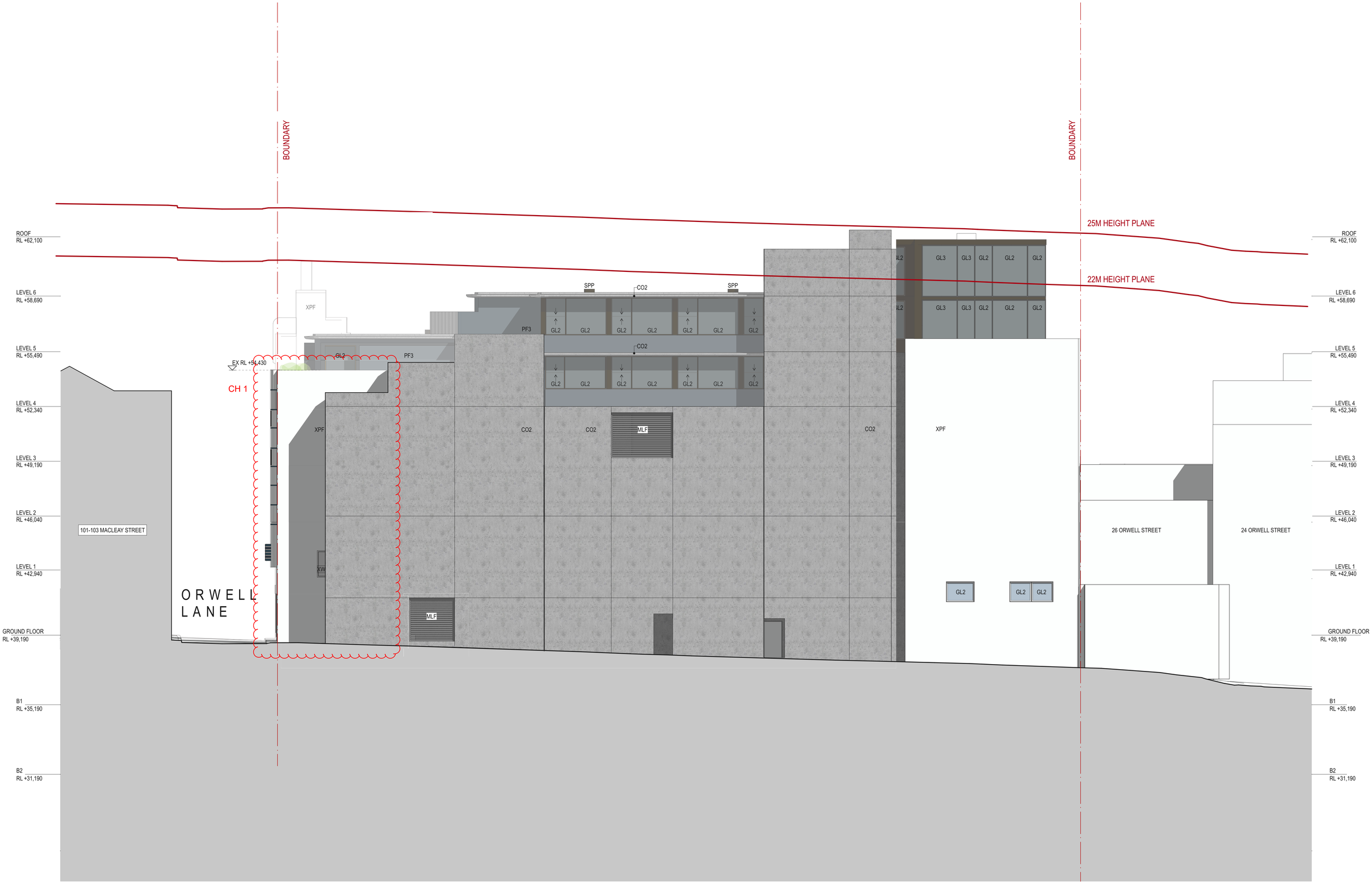
**DRAWING TITLE**
NORTH ELEVATION

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 16/8/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-202
**REV** E

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SCALE 1:100
1 0 1 2 3 4 5m

PROJECT NO : 20024

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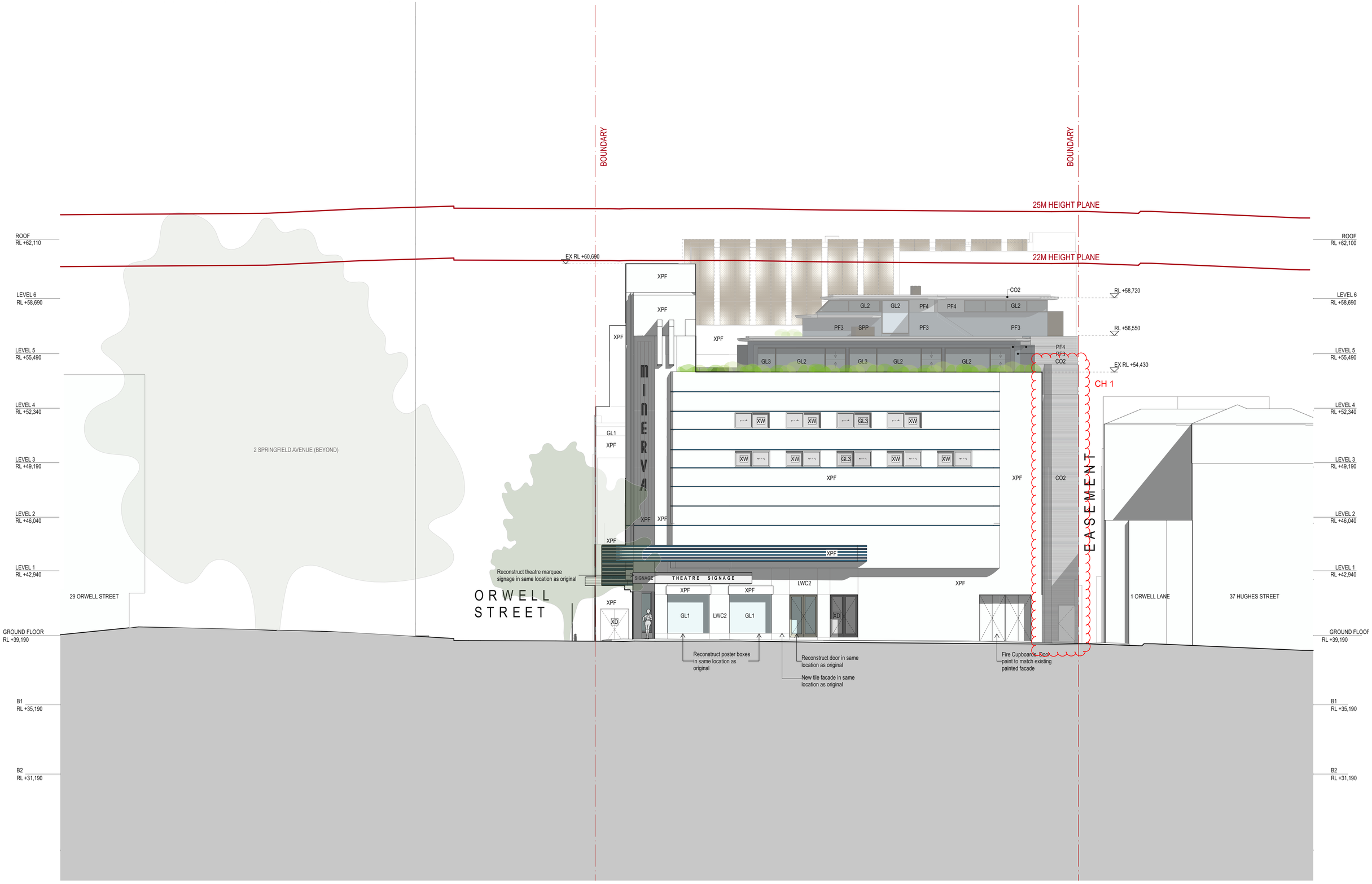
**DRAWING TITLE**
NORTH ELEVATION FLYTOWER FACADE

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 16/8/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-203
**REV** F

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| 16 AUG 2023 | E | DEVELOPMENT APPLICATION |

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PROJECT :
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PROJECT NO : 20024

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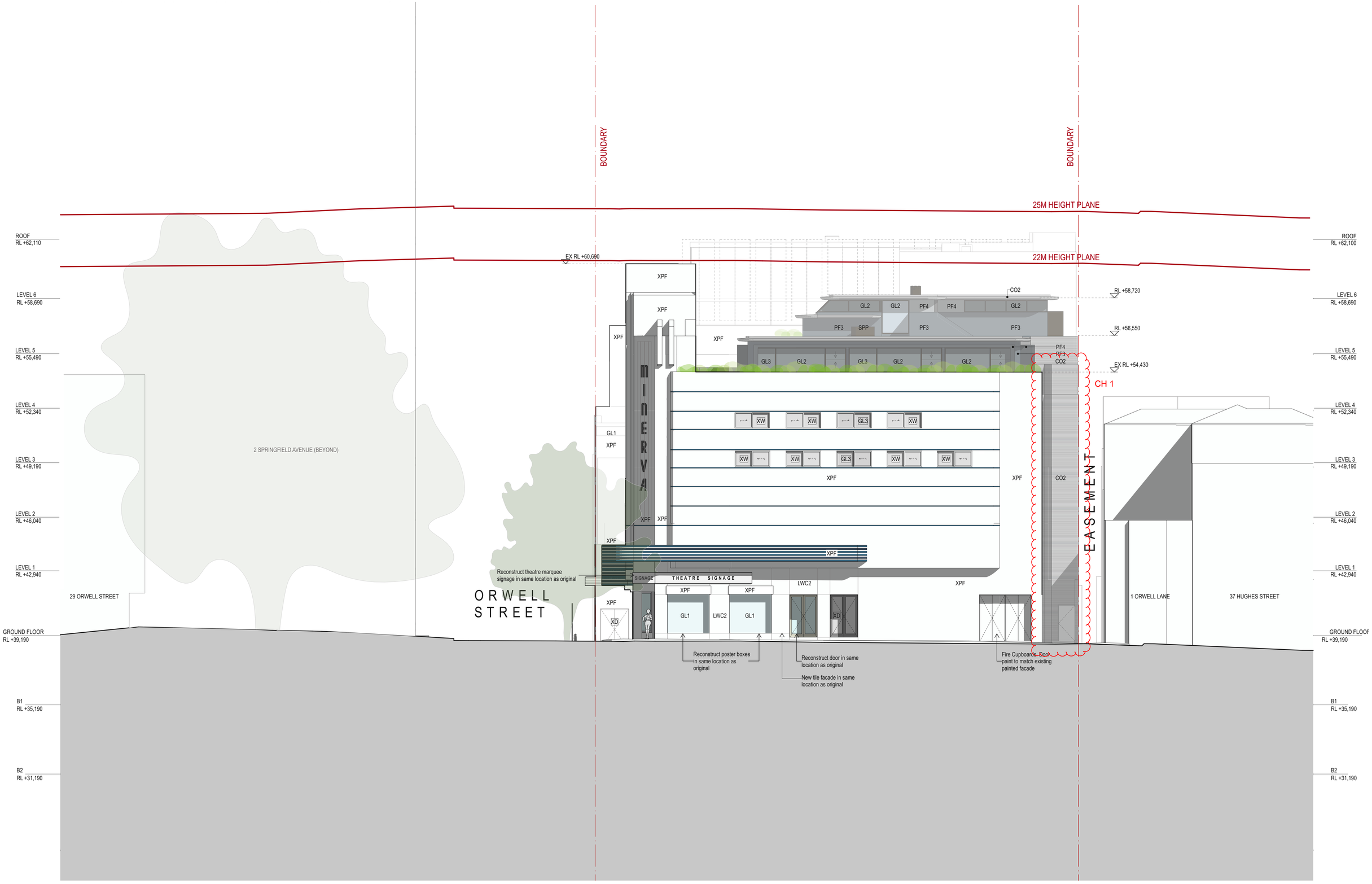
**DRAWING TITLE**
EAST ELEVATION

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 16/8/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-204
**REV** E



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PROJECT NO : 20024

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**DRAWING TITLE**
EAST ELEVATION FLYTOWER FACADE

**SCALES** 1:100 @ A1

**PHASE** DEVELOPMENT APPLICATION

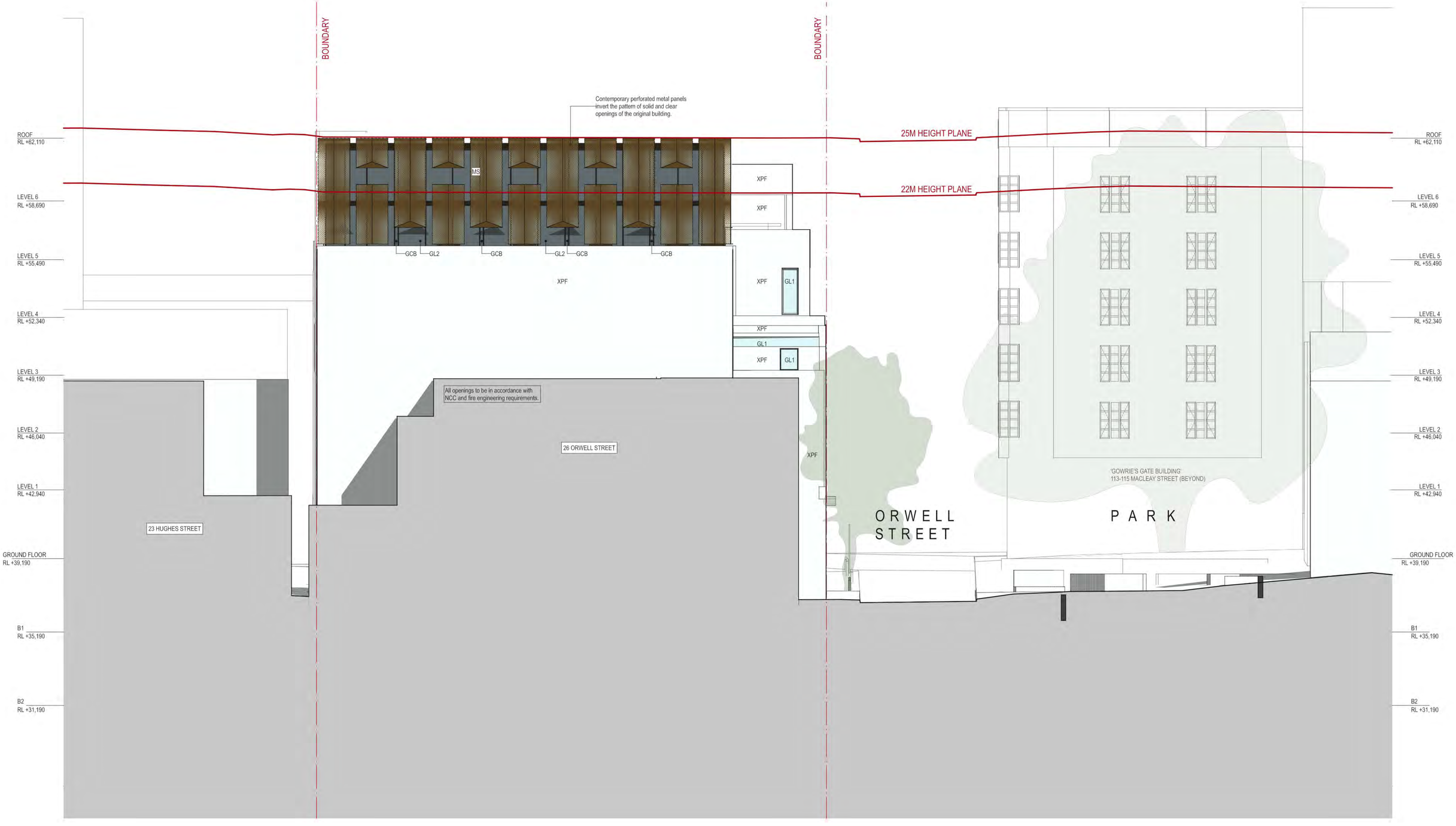
**DRAWING NO** A-205

**DRAWN BY** TS, TL

**CHECKED** TS

**DATE** 16/8/2023

**REV** E




| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | B | DEVELOPMENT APPLICATION |
| 10.FEB.2023 | C | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m
PROJECT NO : 20024

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**DRAWING TITLE**
WEST ELEVATION

**DRAWN BY**
TS, TL

**CHECKED**
TS

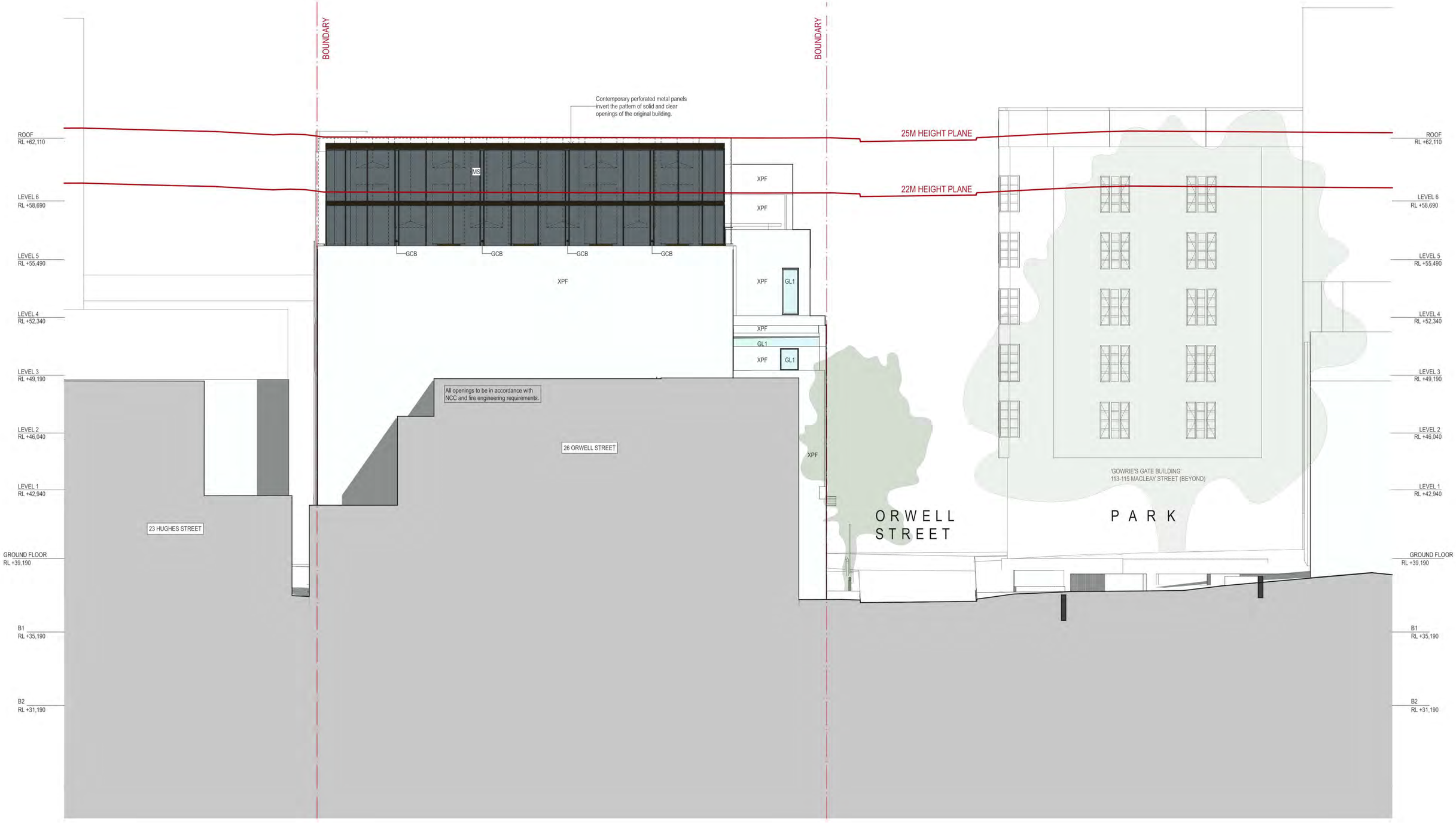
**SCALES**
1:100 @ A1

**DATE**
1/3/2023

**PHASE**
DEVELOPMENT APPLICATION

**DRAWING NO**
A-206

**REV**
C




| DATE | REV | DESCRIPTION: |
|---|---|---|
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | B | DEVELOPMENT APPLICATION |
| 20.FEB.2023 | C | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m
PROJECT NO : 20024

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**DRAWING TITLE**
WEST ELEVATION FLYTOWER FACADE

**SCALES** 1:100 @ A1

**DRAWN BY** TS, TL

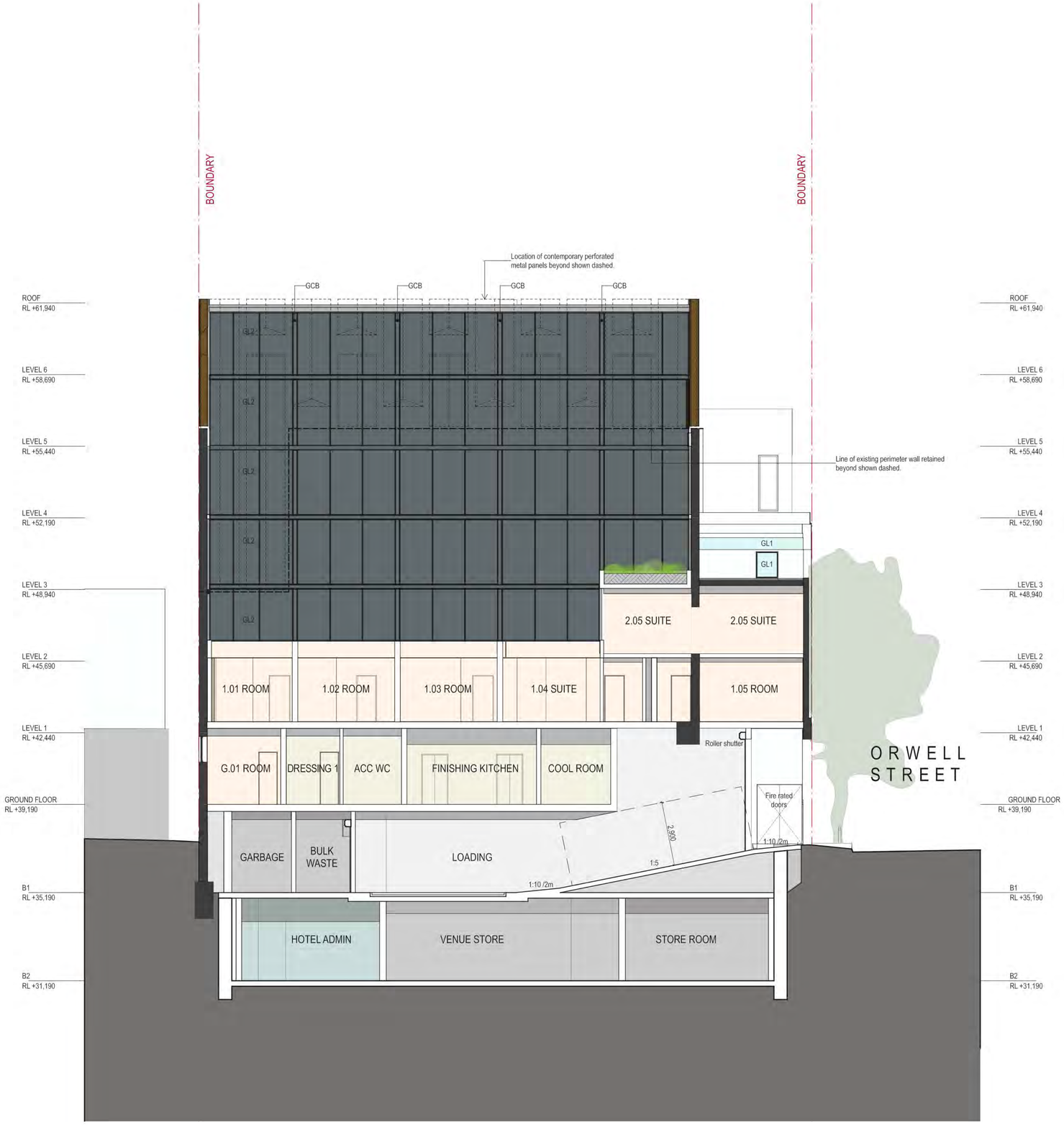
**CHECKED** TS

**DATE** 1/3/2023

**PHASE** DEVELOPMENT APPLICATION

**DRAWING NO** A-207

**REV** C




| DATE | REV | DESCRIPTION: |
|---|---|---|
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | D | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m
PROJECT NO : 20024

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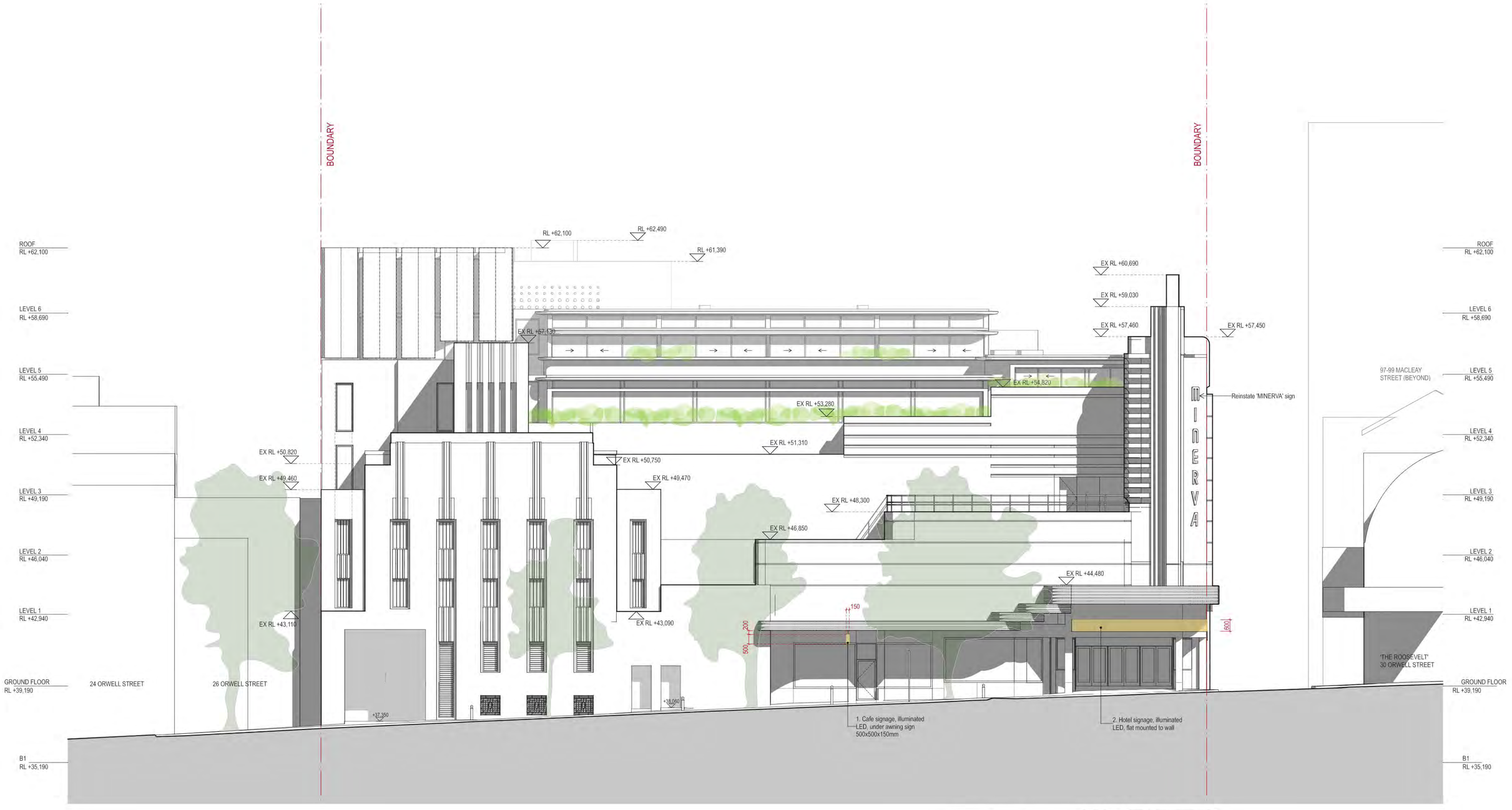
**DRAWING TITLE**
WEST ELEVATION INNER FACADE

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 1/3/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-208
**REV** D










| DATE | REV | DESCRIPTION: |
|---|---|---|
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | B | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | C | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m
PROJECT NO : 20024

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**DRAWING TITLE**
SIGNAGE STRATEGY - SOUTH ELEVATION

**SCALES** 1:100 @ A1

**PHASE** DEVELOPMENT APPLICATION

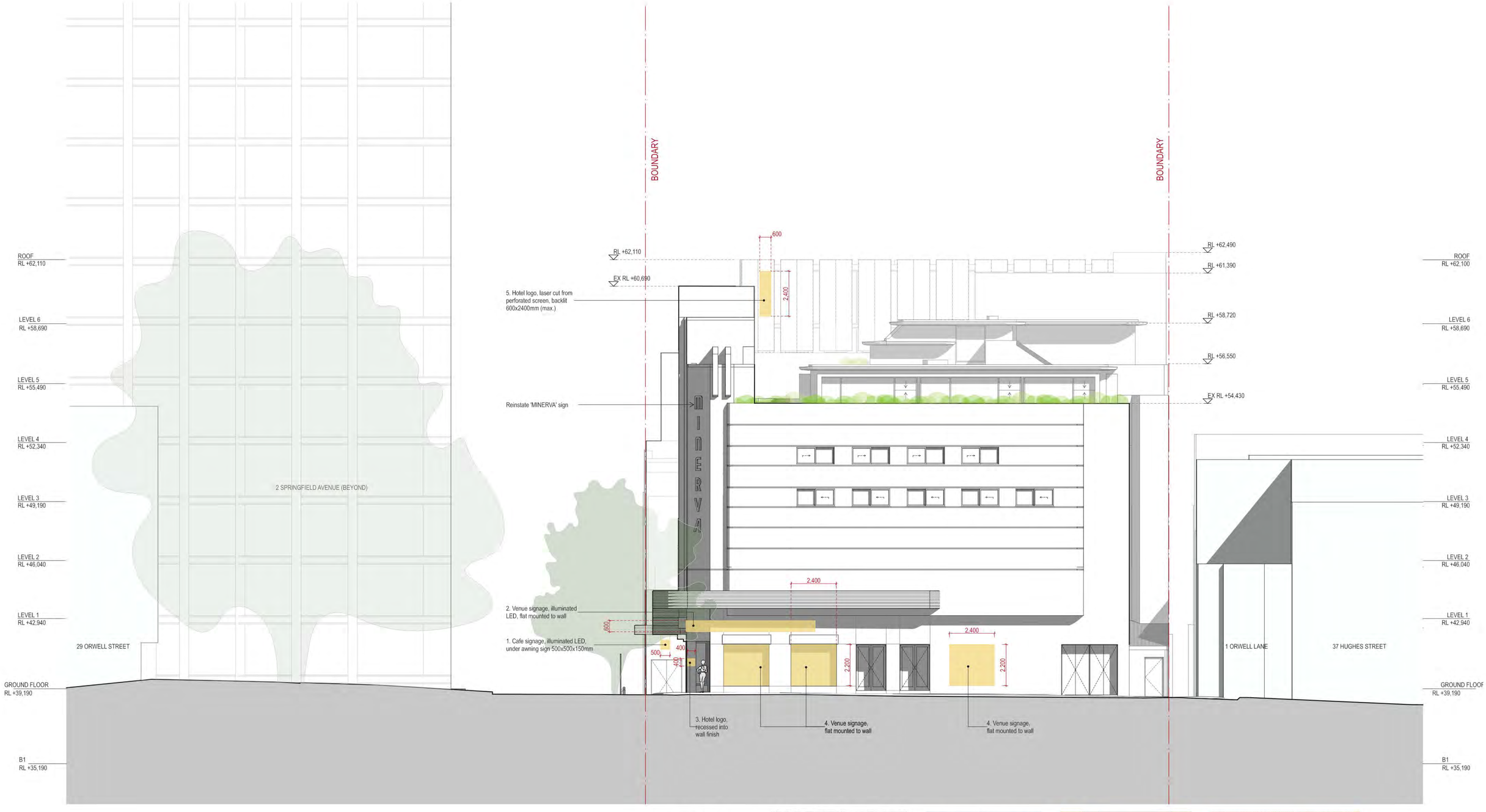
**DRAWING NO** A-210

**DRAWN BY** TS, TL

**CHECKED** TS

**DATE** 1/3/2023

**REV** C





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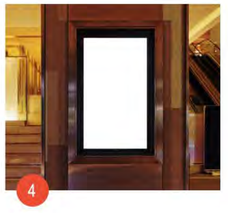
2



3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5

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
| 23.SEP.2021 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | D | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
1 0 1 2 3 4 5m
PROJECT NO : 20024

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**DRAWING TITLE**
SIGNAGE STRATEGY - EAST ELEVATION

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 1/3/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-211
**REV** D




| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m
PROJECT NO : 20024

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| | | |
|---|---|---|
| **DRAWING TITLE**<br>LONGITUDINAL SECTION 1 | | **DRAWN BY**<br>TS, TL |
| | | **CHECKED**<br>TS |
| **SCALES**<br>1:100 @ A1 | | **DATE**<br>1/3/2023 |
| **PHASE**<br>DEVELOPMENT APPLICATION | **DRAWING NO**<br>A-300 | **REV**<br>E |




| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | D | DEVELOPMENT APPLICATION |
| 20.FEB.2023 | E | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m

PROJECT NO : 20024

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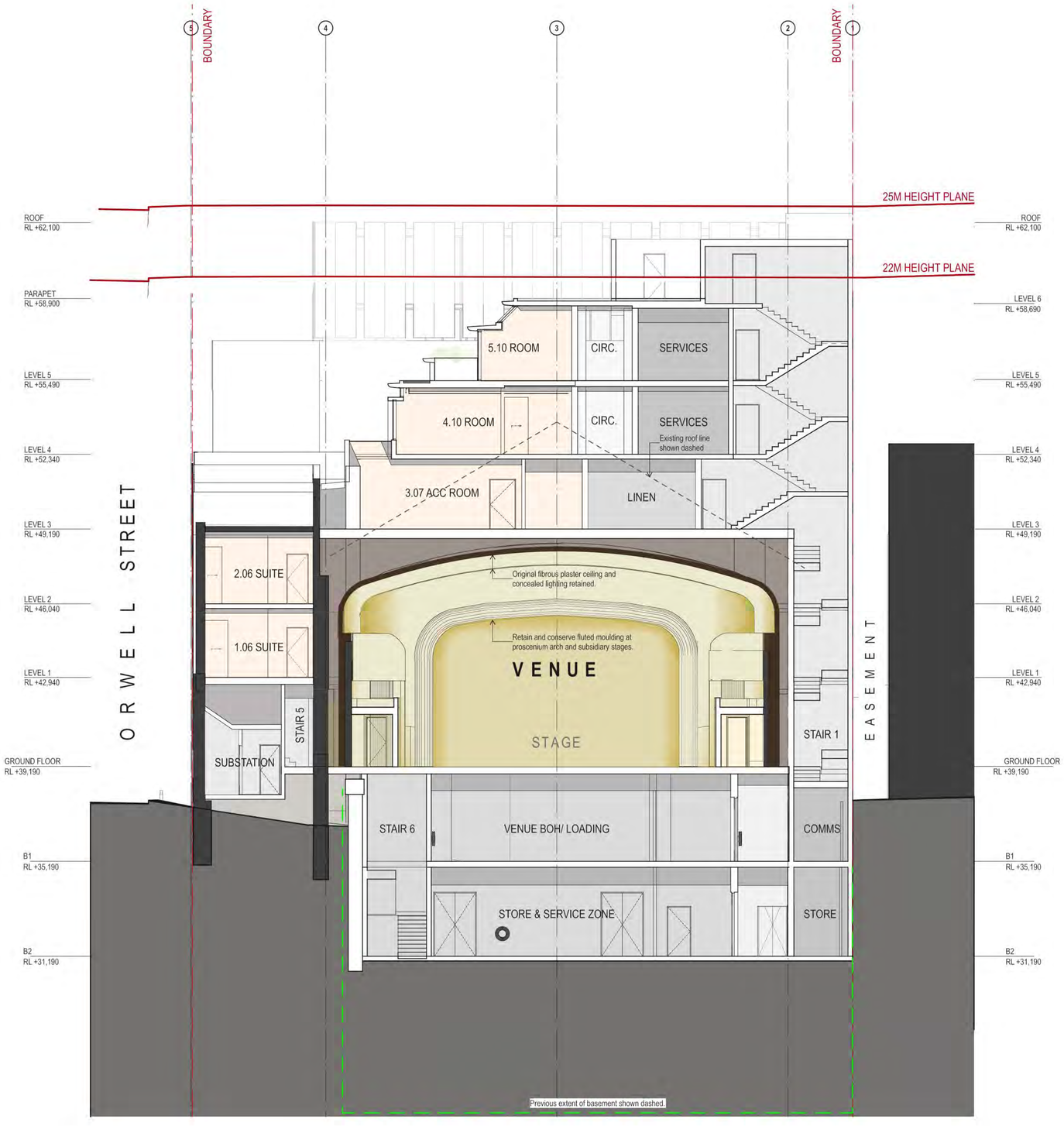
**DRAWING TITLE**
CROSS SECTION 1

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** 1:100 @ A1
**DATE** 1/3/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-301
**REV** E




| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | D | DEVELOPMENT APPLICATION |
| 20.FEB.2023 | E | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
1 0 1 2 3 4 5m

PROJECT NO : 20024

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**DRAWING TITLE**
CROSS SECTION 2

**SCALES**
1:100 @ A1

**PHASE**
DEVELOPMENT APPLICATION

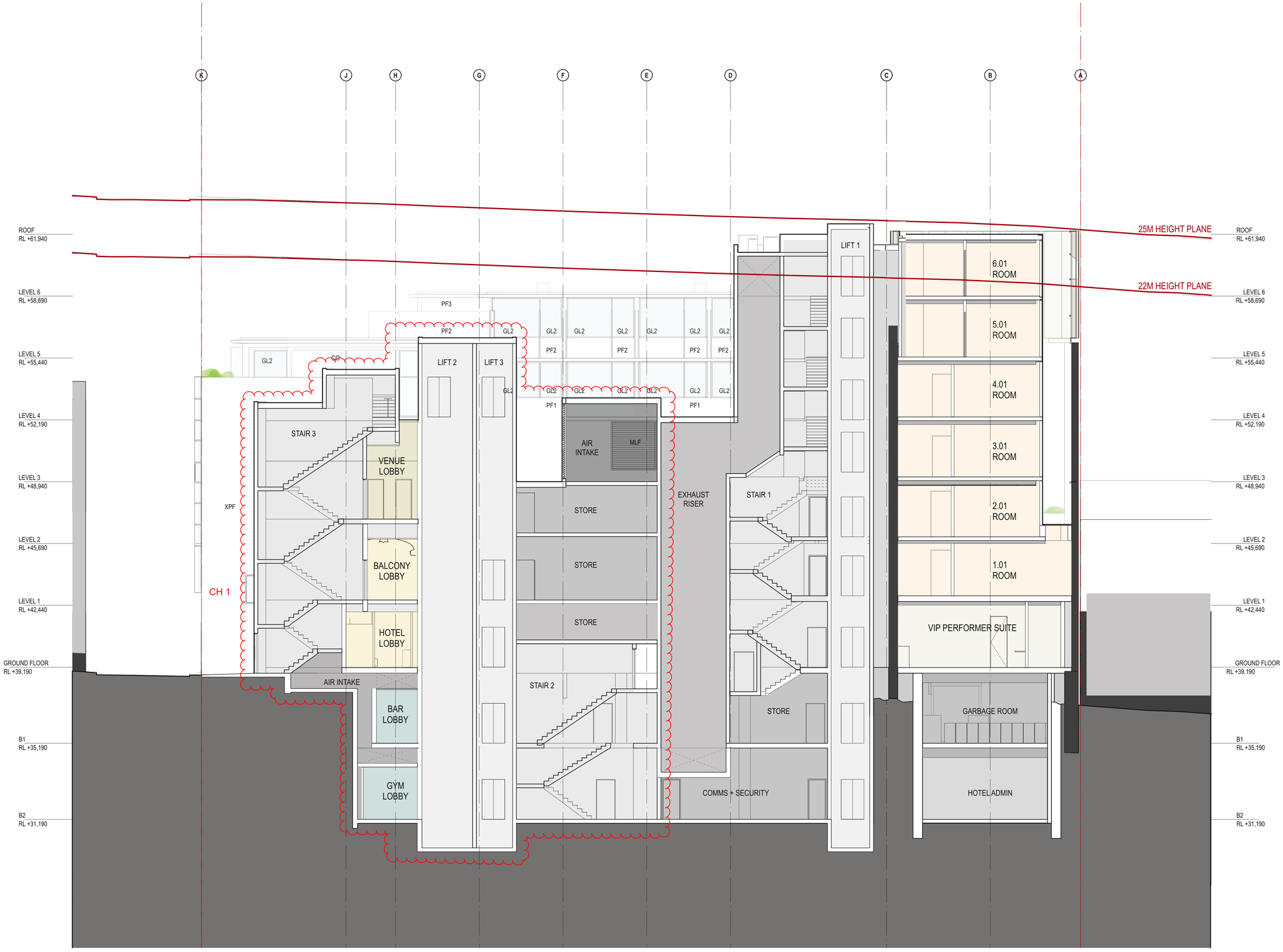
**DRAWING NO**
A-302

**DRAWN BY**
TS, TL

**CHECKED**
TS

**DATE**
1/3/2023

**REV**
E




| DATE | REV | DESCRIPTION: |
|---|---|---|
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | D | DEVELOPMENT APPLICATION |
| 20.FEB.2023 | E | DEVELOPMENT APPLICATION |
| 16 AUG 2023 | F | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m

PROJECT NO : 20024

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**DRAWING TITLE**
LONGITUDINAL SECTION 2

**SCALES** 1:100 @ A1

**PHASE** DEVELOPMENT APPLICATION

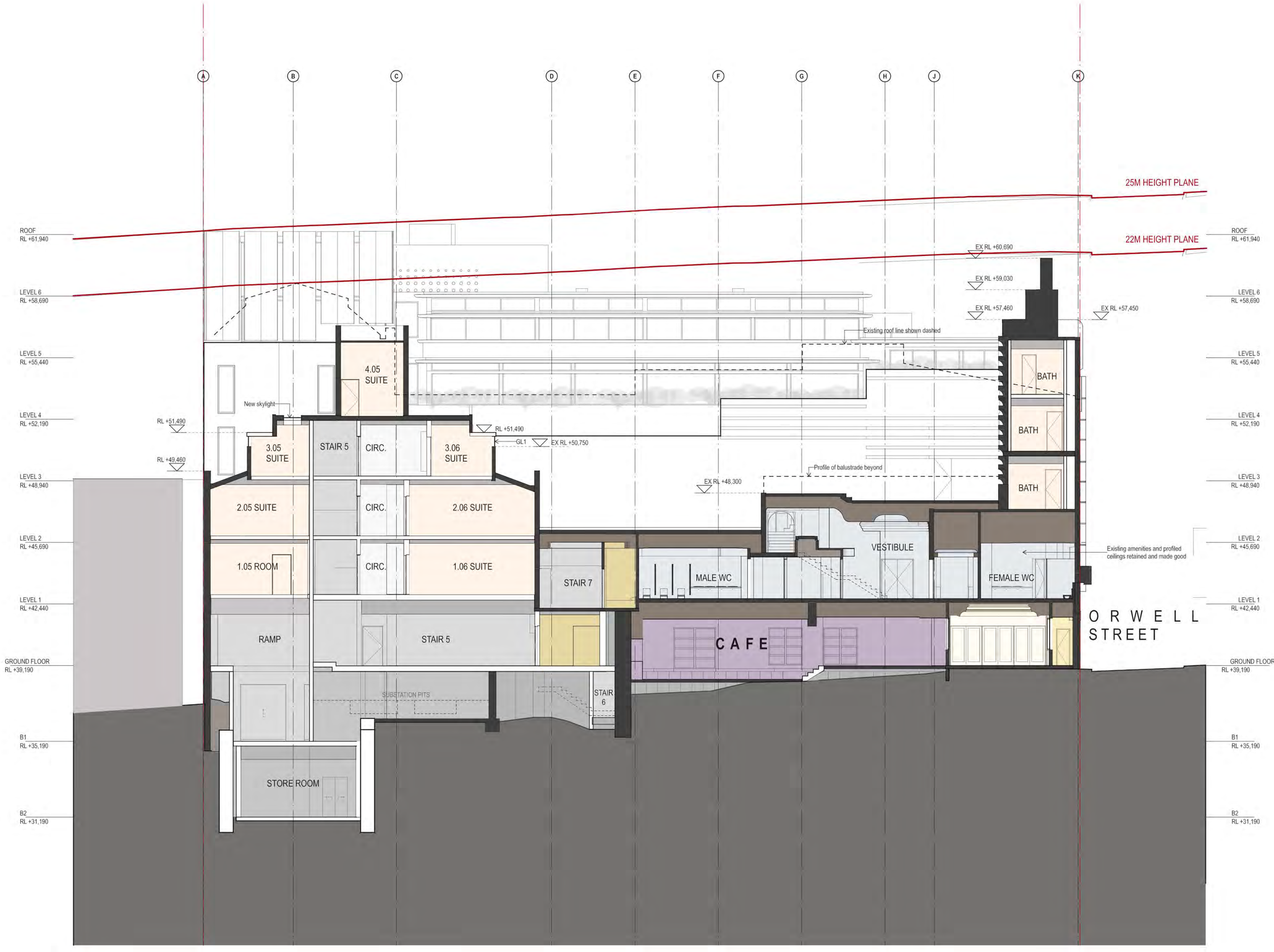
**DRAWING NO** A-303

**DRAWN BY** TS, TL

**CHECKED** TS

**DATE** 16/8/2023

**REV** F

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|---|---|---|
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
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PROJECT NO : 20024

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**DRAWING TITLE**
LONGITUDINAL SECTION 3

**DRAWN BY**
TS, TL

**CHECKED**
TS

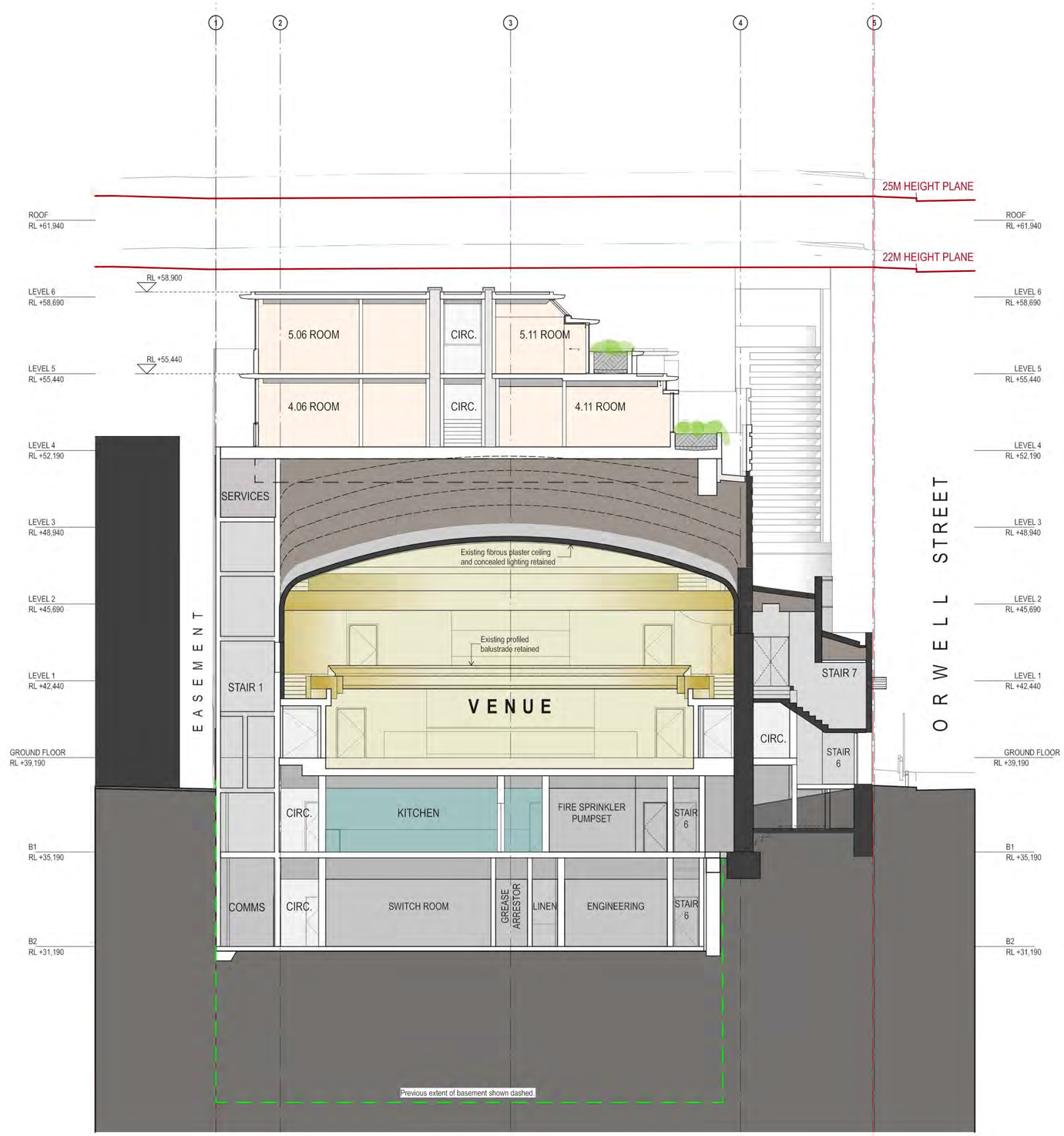
**SCALES**
1:100 @ A1

**DATE**
1/3/2023

**PHASE**
DEVELOPMENT APPLICATION

**DRAWING NO**
A-304

**REV**
E

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PROJECT :
THE MINERVA

SCALE 1:100
0 1 2 3 4 5m
PROJECT NO : 20024

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| | | | |
|---|---|---|---|
| **DRAWING TITLE**<br>CROSS SECTION 3 | | | **DRAWN BY**<br>TS, TL |
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| **SCALES**<br>1:100 @ A1 | | | **DATE**<br>1/3/2023 |
| **PHASE**<br>DEVELOPMENT APPLICATION | **DRAWING NO**<br>A-305 | | **REV**<br>E |




| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 29.NOV.2022 | A | DEVELOPMENT APPLICATION |
| 01 MAR 2023 | B | DEVELOPMENT APPLICATION |

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PROJECT NO : 20024

**DRAWING TITLE**
PERSPECTIVE IMAGES - 1

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** @ A1
**DATE** 1/3/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-400
**REV** B



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PROJECT NO : 20024

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**DRAWING TITLE**
PERSPECTIVE IMAGES - 2

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** @ A1
**DATE** 1/3/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-401
**REV** -




| DATE | REV | DESCRIPTION: |
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**DRAWING TITLE**
PERSPECTIVE IMAGES - 3

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** @ A1
**DATE** 1/3/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-402
**REV** -



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**DRAWING TITLE**
PERSPECTIVE IMAGES - 4

**DRAWN BY** TS, TL

**CHECKED** TS

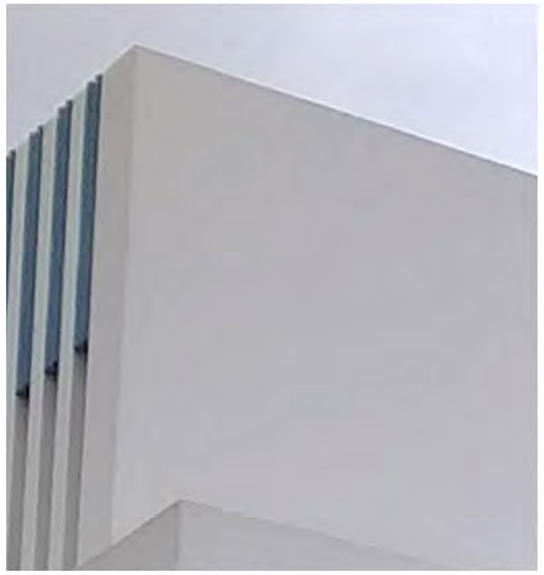
**SCALES** @ A1

**DATE** 1/3/2023

**PHASE** DEVELOPMENT APPLICATION

**DRAWING NO** A-403

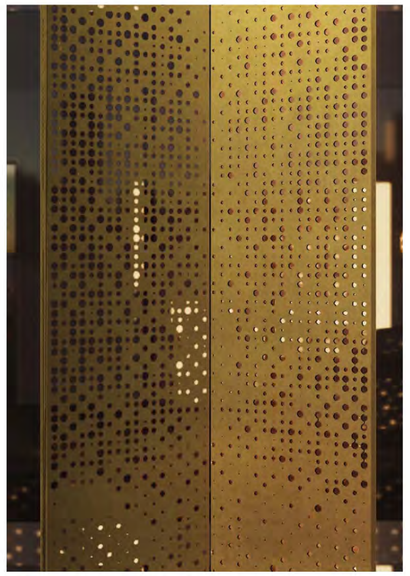
**REV** A



**PF1** - White paint finish to match existing



**PF2** - Blue paint finish to match existing



**MS** - Metal screen, dull aged brass, perforated



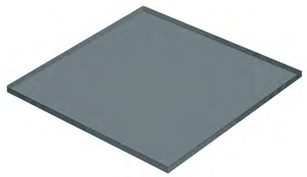
**MB** - Metal, dull aged brass



**LWC1** - Light marbled stone tile, polished finish - interpretation of original wall finish



**GL1** - Glass, clear



**GL2** - Glass, tinted



**MLO, MLF** to be finished in dark grey powdercoat finish - Dulux Duratec Zeus Monument matt or similar



**CO2** - Class 2 off form concrete



**GL3** - Glass, privacy



**GCB** - Glass, colour back



**SPP** - Light grey powdercoat finish - Dulux Duratec Silver Grey matt or similar

| Code | Description |
|---|---|
| CO2 | Class 2 off form concrete |
| FH | Fire hydrant |
| FHR | Fire hose reel |
| GCB | Glass, colour backed |
| GD | Glass door |
| GDS | Glass door, sliding |
| GL1 | Glass, clear |
| GL2 | Glass, tinted |
| GL3 | Glass, privacy |
| LWC1 | Lightweight cladding, type 1 |
| LWC2 | Lightweight cladding, type 2 |
| MB | Metal, brass |
| MLF | Louvre, metal, fixed |
| MLO | Louvre, metal, operable |
| MS | Metal screen, brass, perforated |
| PF1 | Paint finish, type 1, to match existing |
| PF2 | Paint finish, type 2, to match existing |
| PF3 | Paint Finish, type 3 |
| PF4 | Paint Finish, type 4 |
| RDP | Roller door, perforated |
| SPP | Steel plate, paint finish |
| X | Existing |
| XD | Existing door |
| XPF | Existing paint finish |
| XW | Existing window |

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 17.SEP.2021 | A | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | B | DEVELOPMENT APPLICATION |
| 20.FEB.2023 | C | DEVELOPMENT APPLICATION |

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**DRAWING TITLE**
MATERIALS BOARD

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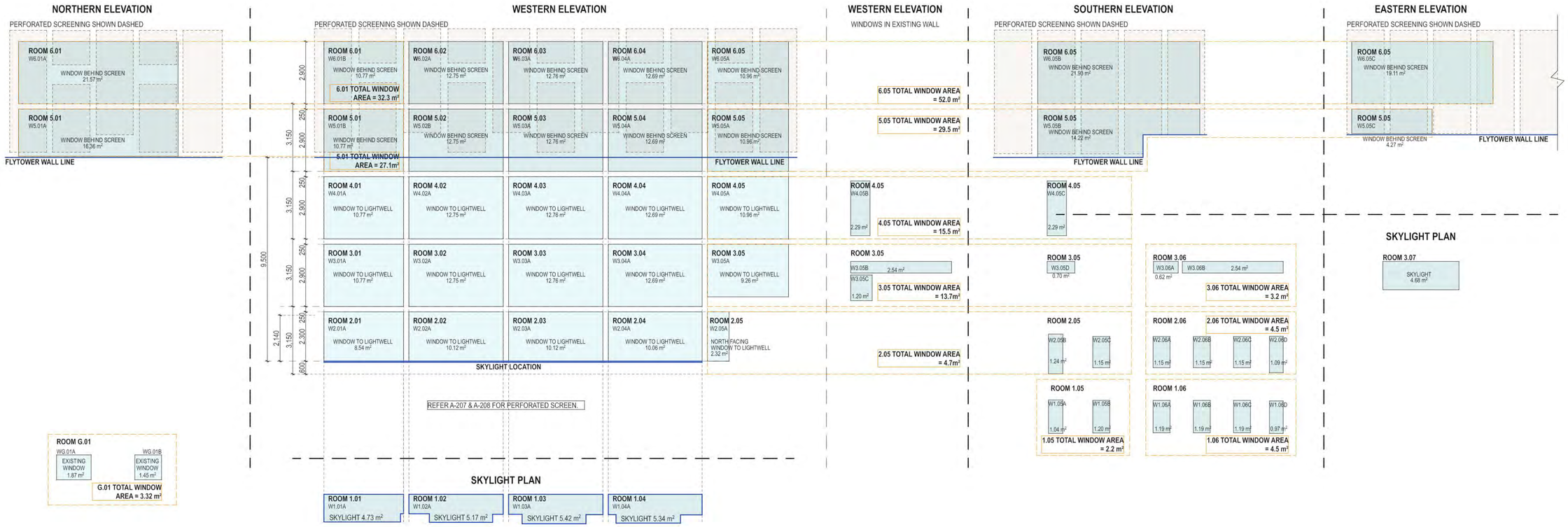
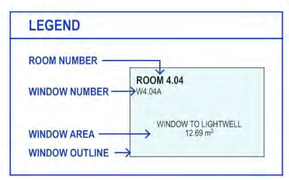
**CHECKED** TS
**SCALES** @ A1
**DATE** 1/3/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-601
**REV** C

# FLYTOWER HOTEL ROOMS: WINDOW, SKYLIGHT & ROOM AREAS






| DATE | REV | DESCRIPTION: |
|---|---|---|
| 23.NOV.2022 | A | DEVELOPMENT APPLICATION |
| 29.NOV.2022 | B | DEVELOPMENT APPLICATION |
| 06.FEB.2023 | C | DEVELOPMENT APPLICATION |
| 08.FEB.2023 | D | DEVELOPMENT APPLICATION |

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**DRAWING TITLE**
FLYTOWER WINDOW SCHDULE

**DRAWN BY**
TS, TL

**CHECKED**
TS

**SCALES**
1:100 @ A1

**DATE**
1/3/2023

**PHASE**
DEVELOPMENT APPLICATION

**DRAWING NO**
A-602

**REV**
D

# Attachment C

## Clause 4.6 Variation Request - Height of Buildings

PLANNING LAB

Clause 4.6 Variation Request

Height of Buildings (Clause 4.3)

Sydney LEP 2012

# ALTERATIONS AND ADDITIONS TO THE MINERVA THEATRE AND THE ADAPTIVE REUSE OF THE BUILDING FOR THE PURPOSES OF ENTERTAINMENT FACILITIES, FOOD & DRINK PREMISES AND TOURIST AND VISITOR ACCOMODATION

28 – 30 Orwell Street, Potts Point




Prepared by Planning Lab

**Updated Version Issued 22 August 2023**

## Introduction

This is a formal written request that has been prepared in accordance with Clause 4.6 (cl 4.6) of the *Sydney Local Environmental Plan 2012* (SLEP 2012). It supports a Development Application (DA) submitted to City of Sydney Council for the adaptive reuse of the Minerva Theatre, a State heritage listed building located at 28-30 Orwell Street, Potts Point ('the site'). The proposal constitutes a mixed use development including performance spaces, tourist and visitor accommodation and food and drink premises.

The purpose of this cl 4.6 variation request is to address a variation to Clause 4.3 Height of Buildings under the SLEP 2012. Specifically, this request seeks to vary the 22m height standard that applies to the site.

The objectives of cl 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development.

This request has been prepared having regard to the following considerations:

- The Department of Planning and Environment's *Guidelines to Varying Development Standards* (August 2011);
- The objectives of Clause 4.3 of the SLEP 2012, being the development standard to which a variation is sought;
- Relevant case law in the New South Wales Land and Environment Court and New South Wales Court of Appeal including *Wehbe v. Pittwater Council* [2007] NSWLEC 827.

This variation request provides an assessment of the development standard and the extent of variation proposed to the standard. The variation is then assessed in accordance with the principles set out in the *Wehbe* matter.

A revised version of this Variation Request has been prepared to respond to the following resolution made by the City of Sydney Local Planning Panel at its meeting of 19 July 2023, in which it determined to defer the Council officers' report relating to this application (D/2021/893):

> *"The Panel deferred consideration of Development Application No. D/2021/893 until a subsequent meeting of the Local Planning Panel to enable the applicant to submit additional information and amended plans which address the Panel's concerns regarding the inadequate clause 4.6 variation request – height of buildings and/or the potential to minimise the view impacts by reducing the height of part of the proposed development above the fly tower.*
>
> *The question of reversibility is also required to be more effectively addressed.*
>
> *The privacy and amenity of residents to the north requires more consideration with suitable design amendments, as well as further design resolution in separating the cabaret area from the hotel use.*
>
> *The issues of hotel room amenity, hotel and venue circulation, the lack of hotel back-of-house facilities and the inadequacy of theatre back-of-house needs to be resolved.*
>
> *The operational constraints imposed on the venue due to the number of hotel rooms and the potential conflicts between discrete uses also require further consideration.*

***Reasons for Decision***

*The Panel expressed reservations regarding the application in its current form, however considered it reasonable to defer rather than refuse the application as there appears to be reasonable potential for additional information and design refinements required to enable finalisation of the assessment."*

In responding to this resolution, it is important to recognise that, since the lodgement of the original development application in 2021, the proponents have made a significant range of plan amendments to the proposal in response to address concerns raised by Council officers and public notification submissions, as well as the Technical Advisory Panel of Heritage NSW. The most notable of these changes were:

- A reduction of the proposed basement by two levels and reduction in the footprint of the basement, including deletion of a basement nightclub tenancy;
- Retention of the grand staircase within the foyer;
- Deletion of new openings within the flytower wall;
- A reduction in the north-eastern corner of the vertical addition to the main building to assist with view sharing; and
- Removal of 86.7m2 of GFA from the auditorium, as a means of restoring the Level 1 heritage footprint.

Through this extensive assessment and iterative process of plan amendments, the general conclusion of proponent and Council officer assessment was that a suitable strategy was to mass the development so that:

- the height and bulk of the new development additions along the Orwell Street and Orwell Lane site frontages and mid part of the site are below the 22 metre height plane; and
- additional height (above the 22 metre height limit, but below a 25 metre height plane) is restricted to the existing flytower wing along the west and north-west parts of the site.

This strategy produced the latest design amendments which are:

- compliant with the maximum SLEP 2012 floor space ratio of 3.5:1; and
- generally compliant with other key Council planning controls.

The current proposal is considered to be the least impacting of building massing options across the site.

The redistribution of building mass above the site's flytower wing has resulted in a variation to the maximum SLEP 2012 height limit of 22 metres, which necessitates this justification under Clause 4.6 of the LEP to vary this development standard.

The following further plan amendments and additional information have also been submitted to address concerns raised in the recent Local Planning Panel consideration of this DA regarding the ground floor, back-of-house floor layout:

- Removal of a ground floor hotel room and changed to a VIP Performers' (green) room;
- Modifications to the ground floor layout to accommodate new hotel lobby and airlock; and
- Modifications to the design and location of the proposed Level 2 Lift to avoid conflict between proposed theatre and hotel uses.

This updated version of the Variation Request Report provides a more detailed analysis and commentary on the environmental impacts of the extent of the LEP height variation, particularly in respect of the visual, overshadowing, privacy, view loss and noise amenity of the surrounding public domain and private properties, and reaffirms the original assessment that strict compliance with the height requirement is unreasonable and unnecessary in this instance.

This assessment is consistent with the recent recommendation of conditional approval of the application put forward by Council officers in a recent report to the 19 July 2023 City of Sydney Local Planning Panel Meeting.

## Clause 4.6 Exceptions to development standards

Clause 4.6(2) of the SLEP 2012 provides that development consent may be granted for development even though the development would contravene a development standard imposed by the SLEP 2012, or any other environmental planning instrument.

However, Clause 4.6(3) states 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 circumstance of the case, and*

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

In accordance with clause 4.6(3) the applicant requests that the height of building development standard be varied.

## What is the Environmental Planning Instrument (EPI) that applies to the land?

The Environmental Planning Instrument (EPI) to which this variation relates is the SLEP 2012.

## What is the zoning of the land?

The site is zoned MU1 – Mixed Use pursuant to the SLEP 2012. Refer to **Figure 1.** The proposed '*hotel and motel accommodation*', '*entertainment facility*' and the complementary '*food and drink premises*' are permissible with consent in the zone.

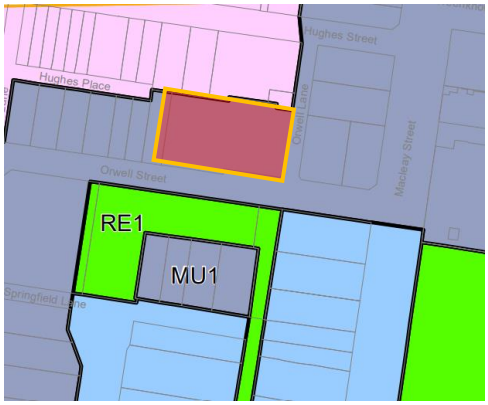



***Figure 1** – The land zoning of the subject site extracted from the Land Zoning Map (Source: Sheet LZN_022 - SLEP 2012)*

## What is the development standard being varied?

Clause 4.3(2) of the SLEP 2012 provides that the maximum height for a building on any land is not to exceed the height shown for the land on the Height of Building Map. The site is within area 'R' on the Height of Building Map and accordingly, a Height of 22m applies as shown in **Figure 2.**

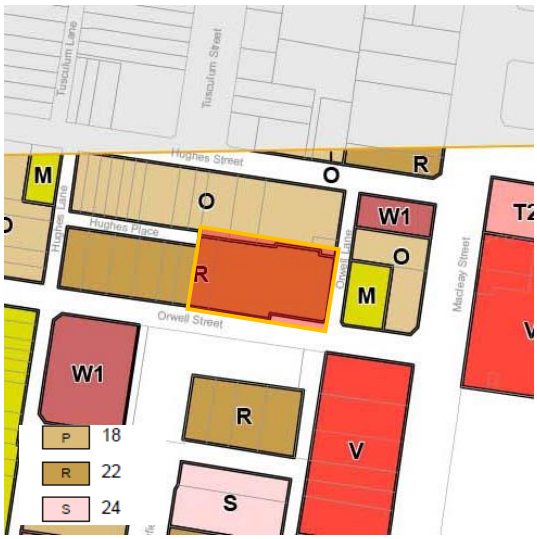



***Figure 2** – The height of building of the subject site extracted from the Height of Building Map (Source: Sheet HOB_022 - SLEP 2012)*

## Is the development standard excluded from the operation of Clause 4.6 of the EPI?

Cl 4.6(2) states that development consent may be granted for development even though the development would contravene a development standard. However, this does not apply to a

development standard that is expressly excluded under cl 4.6(6) or cl 4.6(8) of the SLEP 2012. The maximum height development standard is not identified under subclause 4.6(8) and is therefore not specifically excluded from the operation of cl 4.6 of SLEP 2012.

## The site and its context

The site is located at 28-30 Orwell Street, Potts Point within the City of Sydney Local Government Area. The site is located east of central Sydney within the urban centre of Potts Point. The site is legally described as Lots 1,2,3 and 4 in DP 456456, and Lot 10 in DP 10682 and is privately owned by CE Minerva Pty Ltd. It is rectangular and has an area of 1,267m². It has a primary frontage to Orwell Street of approximately 46m and a secondary frontage of 27m to Orwell Lane.

The subject site houses the 'Metro Theatre', an Art Deco style building which consists of 5 storeys over a basement level bounded on two sides by road, and on the other two sides by residential blocks. A privately owned right of way (1.5 metres in width) separates the subject site and adjoining properties to the north. An aerial photo of the site is shown in **Figure 3**.




***Figure 3:*** *Aerial view extracted from NSW Government's SixMaps website, with the red annotation indicating the location of the subject site (Source: Six Maps 2021)*

The immediately adjoining properties and surrounding blocks consist of a very diverse and densely developed mix and scale of use and building typologies, ranging from lower scale, 3-4 storey, residential flat buildings and shop top housing, similar scaled entertainment/food and drink/ community/tourist accommodation uses, through to mid-rise 6-8 storey and higher 14+ storey mixed apartment/retail buildings, including a high proportion of historically and architecturally

significant building styles, reflective of the prevailing heritage item and listed and conservation area planning controls that apply to the Potts Point area.

The area is also well known for its highly active, and often intense generation of pedestrian and vehicular movement through the area, and its related late night, tourist entertainment/retail/food and drink premises attractions. This is an important consideration in the environmental impact assessment detailed in further sections of this report.

A more specific description of existing scale and use of key surrounding sites is provided below:

**To the East**

- 32-34 Orwell Street – 2 storey commercial building (known as The Roosevelt)

**To The North-East**

- 97-99 Macleay Street – 10 storey mixed residential apartments, ground floor retail (known as Byron Hall)
- 101-103 Macleay Street – 3 storey mixed residential apartments, ground floor retail (known as Ganray)

**To the South-East**

- 113-115 Macleay Street – 6 storey mixed residential apartments, ground floor retail (known as Gowrie Gate)
- 117 Macleay Street – 8 storey mixed residential apartments, ground floor retail (known as Cahors)

**To the South**

A series of buildings fronting the Springfield Gardens public open space:

- 29 Orwell Street – 4 storey mixed residential apartments, ground floor restaurant.
- 27 Orwell Street - 4 storey building containing backpackers' accommodation.
- 12 and 12A Springfield Lane – 3-4 storey residential flat buildings.

**To the South-West**

- 5-15 Orwell Street - 14 storey mixed residential apartments, ground floor retail.

**To the West**

- 26 Orwell Street – 4 storey residential flat building (similar scale of mixed RFB/ground floor commercial buildings further west along Orwell Street.

**To the North**

- 23 Hughes Street – 3 storey residential building containing backpackers' accommodation.
- 25 Hughes Street – 4 storey residential flat building.
- 27-37 Hughes Street – a series of three, 3-4 storey buildings all part of the charity/community service operations of the Wayside Chapel, consisting of a chapel, offices, crisis centre, meeting room, shop, café and a single dwelling).
- 1 Orwell Lane – a 2 storey, heritage listed, electrical substation building.

This densely developed pattern of this neighbourhood is also reflected in the maximum permissible building height controls of SLEP 2012 (provided in an LEP map extract in **Figure 4** below), which again highlights a wide range of allowable height of buildings, from 12 to 40 metres, and is an important reference in considering the suitability of the proposed 2.9 metre variation of the maximum 22 metre height limit applying to the subject site.




***Figure 4:*** *Extract of Height of Building Map Sydney Local Environmental Plan 2012 (Source: City of Sydney Interactive Mapping Web Tool)*

## Extent of Variation to the Development Standard

The vast majority of the proposed building envelope is below or in line with the 22m height limit. However, the maximum building height, as measured from the '*existing' ground level'*, is 24.92m at the parapet of the proposed vertical addition above the flytower of the theatre as indicated in the architectural drawings prepared by Tonkin Zulaikha Greer Architects. Therefore, the proposed development breaches the height standard by a maximum of 2.92m (13.27%).

The exceedance, being the portion of the building above the 22m height limit, is attributed to the proposed two storey hotel addition to the flytower (RL +62.10 or 24.92m) along the western boundary and the adjacent vertical circulation element (RL +61,39 or 24.76m) proposed to provide lift and fire egress throughout the building. The extent of the height breach is shown in axonometric view, and selected plan elevations and section in **Figures 5,6,7 and 8** below.

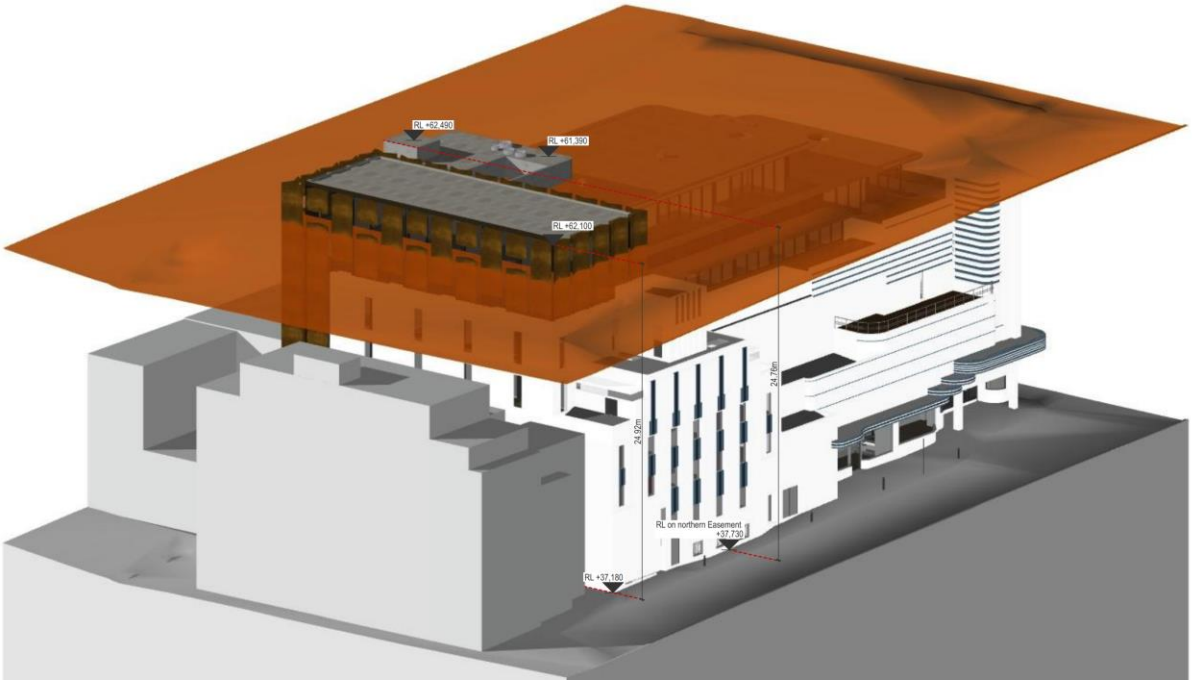



***Figure 5:*** *22m Height Plan Overlay - Axonometric View (Source: Tonkin Zulaikha Greer Architects)*

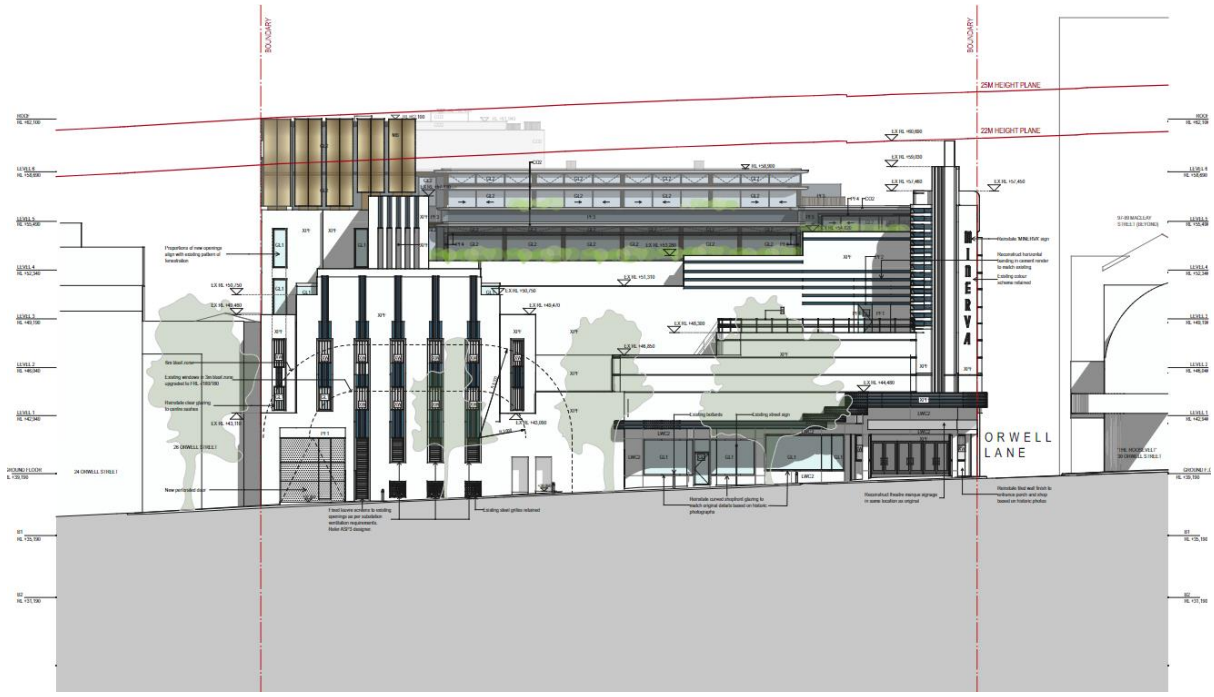



***Figure 6:*** *22m-25m Height Plane – Southern Elevation (Source: Tonkin Zulaikha Greer Architects)*




***Figure 7:*** *22m-25m Height Plane – Northern Elevation (Source: Tonkin Zulaikha Greer Architects)*




***Figure 8:*** *22m-25m Height Plane – Long Section (Source: Tonkin Zulaikha Greer Architects)*

## Clause 4.6(3)(a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Historically the most commonly invoked way to establish that a development standard was unreasonable or unnecessary was the satisfaction of the first test of the five set out in *Wehbe v Pittwater Council* [2007] NSWLEC 827 which requires that the objectives of the standard are achieved notwithstanding the non-compliance with the standard.

In *Wehbe* at [42] – [51] and repeated in *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 at [17]-[21]* the Chief Judge identified 5 ways in which an applicant might establish that compliance with a development standard is unreasonable or unnecessary and that it is sufficient for only one of these ways to be established.

Although *Wehbe* concerned a SEPP 1 objection, it remains relevant to requests under clause 4.6 (as confirmed by Preston CJ in Initial Action at [16]).

The 5 ways in *Wehbe* are that:

1. the objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;

3. the objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. the development standard has been virtually abandoned or destroyed by the Council's actions in granting consents departing from the standard and hence the standard is unreasonable; or,
5. the zoning of the land is unreasonable or inappropriate.

The five ways are not exhaustive, and it may be sufficient to establish only one to satisfy cl 4.6(3)(a).

For completeness, this request addresses the five-part test described in *Wehbe v Pittwater Council* [2007] NSWLEC 827, followed by a concluding position which demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

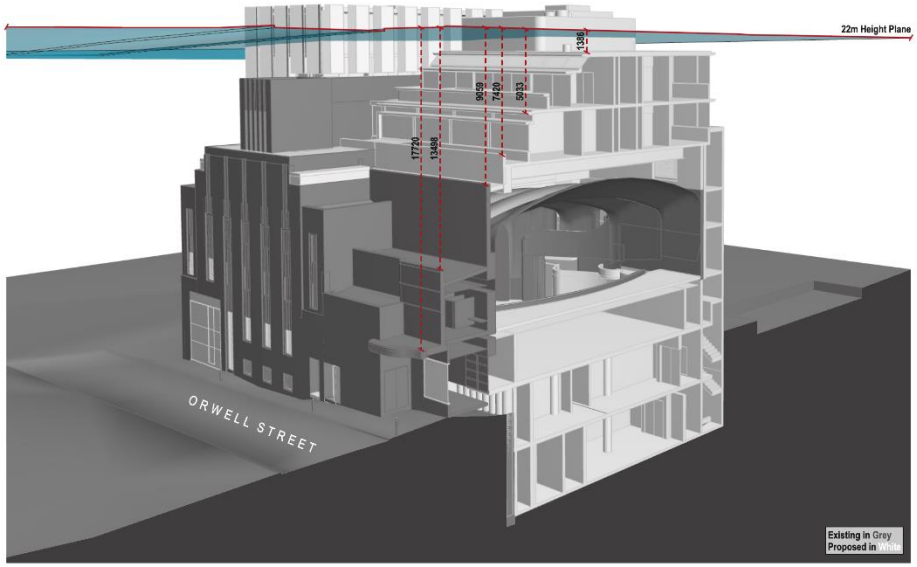
### 1. the objectives of the standard are achieved notwithstanding non-compliance with the standard;

Compliance with the Height of Buildings development standard is unreasonable or unnecessary in the circumstances of the proposed development because, as explained in **Table 1** (below), the objectives of the development standard are achieved, notwithstanding non-compliance with the standard.

In *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 [34], the Chief Judge held, "*establishing that the development would not cause environmental harm and is consistent with the objectives of the development standards is an established means of demonstrating that compliance with the development standard is unreasonable or unnecessary".*

Demonstrating that there will be no adverse amenity impacts is, therefore, one way of showing consistency with the objectives of a development standard.

**Table 1: Achievement of Development Standard Objectives**

| Objective | Discussion |
|---|---|
| 1(a) to ensure the height of development is appropriate to the condition of the site and its context, | In considering this objective, it is important to cross-reference with the detailed description in "The Site and its Context" section of this report.<br><br>The proposal has been through an extensive, collaborative, site-specific design process. The design process has been more detailed and comprehensive than would have been possible when the height control under the SLEP 2012 was established.<br><br>As a result of this design process, the height and bulk of the new development additions located above the theatre have been stepped down along the Orwell Street and Orwell Lane site frontages and mid part of the site below the maximum 22 metre height plane by between approximately 1.5 metres and 9 metres at key points (see **Figure 9** below).<br><br>  <br>***Figure 9:*** *3D Plan and Section View (Source: Tonkin Zulaikha Greer Architects)* |

| | |
|---|---|
| | Instead, this building mass has been redistributed to the part of the site that is more able to sustain it, that is, the location of the existing flytower wing along the west and north-west parts of the site.<br><br>This is a re-massing only. The maximum floor space ratio is not exceeded.<br><br>The current proposed building envelope has been formed through a detailed technical analysis of the following main elements:<br><br>• Extensive research and design testing of how to sensitively respond to the highly significant State and local heritage elements for the adaptive reuse and alterations and additions to the existing Minerva Theatre building and site, which has gained the support and approval of the NSW Heritage Council;<br><br>• A detailed review and response to relevant Council statutory and planning policy controls. This has included the technical guidance from Council staff and advice from Council's Design Advisory Panel on a previous redevelopment proposal for this site in 2019, who were supportive of more of the thin, tower style design adopted for the current proposal, encouraging a maximum height variation of 3 metres, up to 25 metres as the optimal means of achieving the allowable floor space in a limited part of the site in the existing taller flytower structure along the western boundary, whilst still minimising the environmental impacts for surrounding properties and heritage integrity of the Minerva site; and<br><br>• A thorough understanding of the potential environmental impacts of this proposal upon the public domain and adjoining and surrounding property owners, residents and business operators, informed by the proponents' own community consultation process.<br><br>Through a balanced response to each of these elements it is considered that the design of the current proposal achieves an optimal and appropriate distribution of floor space and massing in the least impacting part of the site, ensuring that the vast majority of the new development will be compliant with the site's maximum 22 metre height limit (and key parts of the building will be below the height limit), as evidenced in the plan section in **Figure 10** below, and demonstrating that any resulting adverse environmental impacts from the limited extent of the development where the height is varied will be minimal, and supported by a detailed range of operational management plans for future use of the site. |

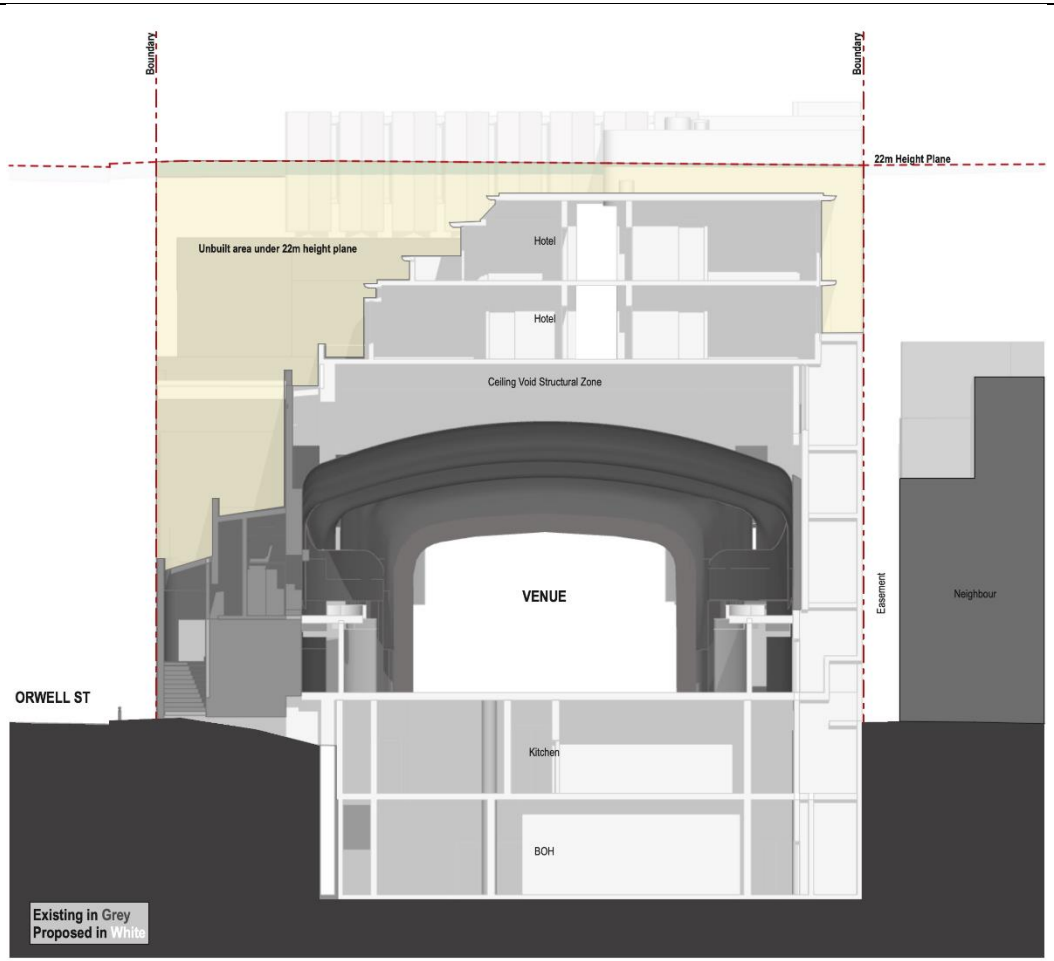



***Figure 10:*** *A plan section through the proposed building envelope demonstrating the large extent of unbuilt area in yellow that will be unbuilt and under the maximum 22 metre height limit plane (Source: Tonkin Zulaikha Greer Architects)*

| | |
|---|---|
| | The key points of assessment of the environmental impacts of both the broader site context as well as the non-compliant component of the building are provided below and are further addressed in in later sections of this report.<br><br>**<u>Visual Impacts</u>**<br><br>The overall proposal will have a minimal visual impact on the setting of the original building. The proposed redistribution of building mass to the location of the existing flytower wing along the west and north-west parts of the site will have a beneficial visual impact (when compared with a hypothetical, compliant development).<br><br>The principal façades on Orwell Street and Lane including the decorative corner tower and characteristics of the Streamline Modernist style will be retained and will continue to read as the primary element in the composition.<br><br>The form of the proposed addition above the flytower corresponds with the original building below. As such, it will be read clearly as a secondary element. Because of the contemporary detailing and the use of a complementary palette of material and finishes, the original form of the building remains legible. Its bulk and scale are considered appropriate as they are respectful to the historic building below through setbacks and building alignments which closely follow that of the building below.<br><br>Along the northern boundary, the new lift and fire stairs have been designed as simple forms that respond to the gradual rise of the building towards the flytower; a five-storey structure on the eastern end and seven storeys next to the flytower.<br><br>As previously identified in **Figures 9 and 10** above, the re-massing allows the major part of the height and bulk of the new development additions located above the theatre to be stepped down and set back along the Orwell Street and Orwell Lane site frontages and mid part of the site, below the maximum 22 metre height plane by between approximately 1.5 metres and 9 metres at key points.<br><br>This re-massing has provided a major beneficial reduction in visual, view and overshadowing impact, particularly for both the public domain along Orwell Street and Orwell Lane, as well as the surrounding properties to the south and south-east.<br><br>This improved visual amenity is also demonstrated in **Figure 11** below through a 3D plan and modelling comparison between a compliant building envelope within the SLEP 2012 maximum height limit of 22 metres, and the proposed building envelope: |

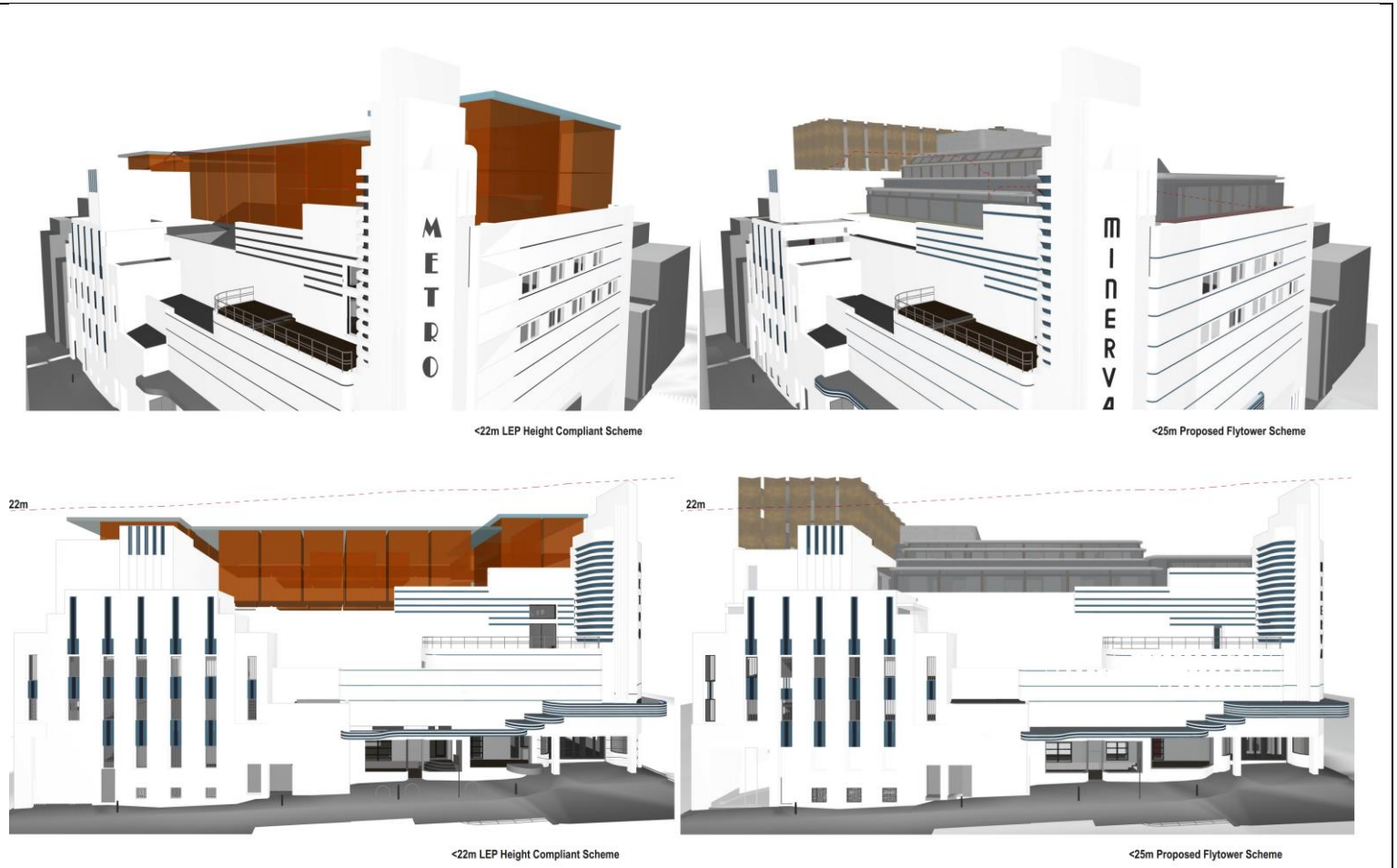



***Figure 11:*** *3D plan comparison of the visual amenity of a compliant (left) vs the proposed (right) building envelope along the site's Orwell Street and Orwell Lane elevations (Source: Tonkin Zulaikha Greer Architects)*

**Overshadowing Impacts**

The proposed additions have been designed to ensure that the current level of solar access to surrounding properties is maintained and little significant additional overshadowing of the public domain, such as the Springfield Gardens, is caused.

The below Shadow Diagrams (Drawings Nos. A500 & A501) (**Figure 12**) have been prepared by the project's architect, Tonkin Zulaikha Greer Architects to demonstrate compliance with clause 4.2.3.1 Solar Access of the SDCP 2012.

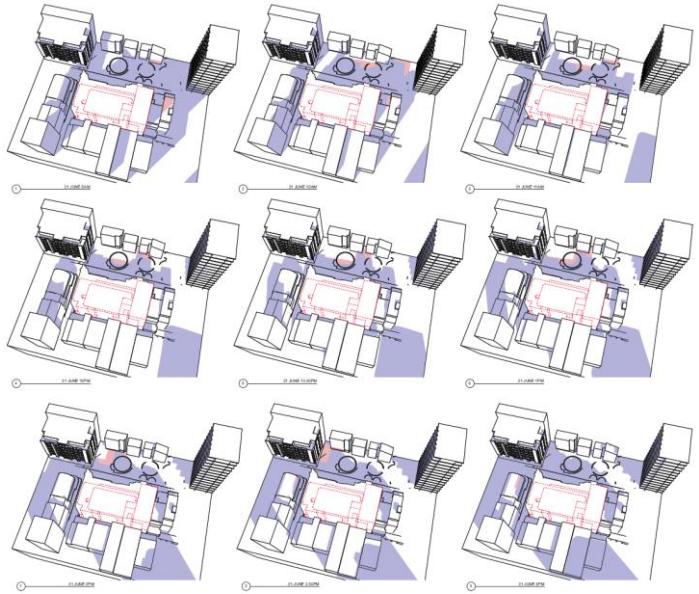


***Figure 12** – Shadow Diagrams 21 June| 9.00 am to 3.00 pm (source: Tonkin Zulaikha Greer Architects)*

The SLEP and Sydney Development Control (SDCP 2012) both have a range of quantitative and qualitative controls to assess the overshadowing impacts of new developments on both the public domain and private properties.

The key assessable controls of Section 3.2.1.1 of SDCP 2012 that apply to the public domain are:

- Overshadowing effects of new buildings on publicly accessible open space are to be minimised between the hours of 9am to 3pm on 21 June; and

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| | • Shadow diagrams are to be submitted with the development application and indicate the existing condition and proposed shadows at 9am, 12 noon and 2pm on 14 April and 21 June.<br><br>The key assessable controls of Section 4.2.3.1 of SDCP 2012 that apply to surrounding private properties are:<br><br>• Proposed apartments in a development and neighbouring developments must achieve a minimum of 2 hours direct sunlight between 9am and 3pm on 21 June onto at least 1sqm of living room windows and a minimum 50% of the required minimum area of private open space area; and<br>• New development must not create any additional overshadowing onto a neighbouring dwelling where that dwelling currently receives less than 2 hours direct sunlight to habitable rooms and 50% of the private open space between 9am and 3pm on 21 June.<br><br>The shadow diagrams prepared by Tonkin Zulaikha Greer Architects indicate that the properties most affected by the proposed envelope overshadowing on 21 June are the Gowrie Gate mixed residential building (113-115 Macleay Streat) to the south-east, and a series of backpacker's and residential buildings to the south (Nos. 27-29 Orwell Street and 12/12A Springfield Avenue), with direct frontage to Springfield Gardens. Extracts from the shadow diagram package of the latest amended plans identify the most significant of these impacts: |

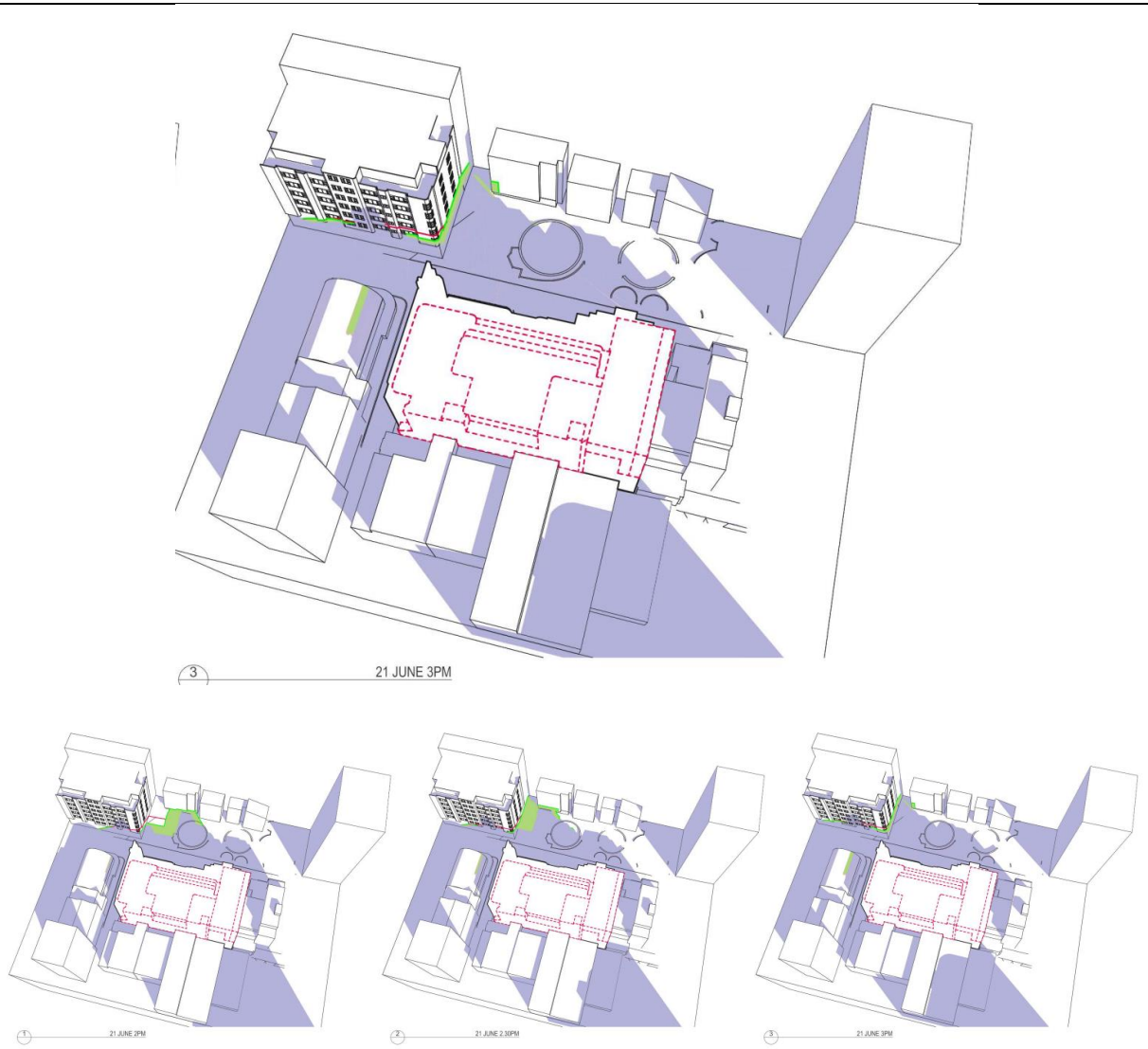


***Figure 13:*** *Extracts from shadow diagram package (as amended) (Source: Tonkin Zulaikha Greer Architects)*

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| | The results of these diagrams take into account the amended plans that incorporate a more concentrated massing of floor space above the site's existing flytower wing, which has led to a maximum building height variation of 2.92 metres to the maximum SLEP 2012 allowable of 22 metres.<br><br>As submitted through this Clause 4.6 Variation Request, the amended massing of floor space and building height above the flytower wing is considered to be the most optimal distribution of allowable and compliant floor space (within the 3.5:1 maximum FSR of SLEP 2012), and least impacting in terms of impacts for surrounding properties, and that the loss of direct solar access for the above properties to the south-east and south, as well as the adjoining Springfield Reserve is relatively minimal and restricted to a small number of dwellings. Furthermore, it needs to be recognised that the current proposal is compliant with the solar access controls of SDCP 2012.<br><br>This assessment of overshadowing impacts is supported by Council officers in the planning report submitted to the 19 July 2023 Local Planning Committee Meeting, in which they provide comment:<br><br>*"3.2.1.1 Sunlight to Publicly Accessible Spaces*<br><br>*As discussed above, the design of the addition has provided a stepped building form to setback the upper levels, in order to minimise overshadowing impacts to Springfield Gardens which satisfies the control.*<br><br>*It is also noted that during the assessment of the application the applicant put forward an option to reduce the street setback of the upper level, which resulted in additional overshadowing impacts to the park, which was not supported.*<br><br>*The final amended proposal has not increased overshadowing beyond the extent originally proposed.*<br><br>*4.2.3.1 Solar access*<br><br>*The site is located to the north west of a residential building at 113-115 Macleay Street, known as Gowrie Gate.*<br><br>*The proposal results in additional overshadowing to the windows on the lowest level of residential uses at 3pm, however maintains the existing level of solar access at other times, and 2 hours of direct sunlight is maintained.* |

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| | *The site is located to the north of three residential flat buildings and a backpacker's accommodation on the opposite side of Springfield Gardens.*<br><br>*The proposal results in some minimal additional overshadowing to these buildings, however 2 hours of direct sunlight is maintained to the front facade of these buildings."*<br><br>**<u>Residential Amenity Impacts – Visual Privacy</u>**<br><br>Within such an active, built-up and densely populated, urban environment, it was always a key consideration of this proposal to ensure that the visual privacy amenity and outlook of adjoining and surrounding residents and occupants were thoroughly addressed.<br><br>An initial site context analysis and other technical studies were critical to gaining an understanding of the variable exposure to such amenity impacts in all surrounding aspects of the site.<br><br>Through the inclusion of the following design techniques, the current proposal is expected to achieve a high performance of visual privacy for the site's future operations:<br><br>• minimising the amount and sizing of windows and balconies along the new building elevations;<br>• providing substantial setbacks of the new hotel development to the Orwell Street and Orwell Lane frontages;<br>• the use of a metal perforated design screening on the upper levels of the flytower addition;<br>• the use of strategically placed blade walls, shroud projections and window screens along the site's northern elevation to restrict the extent of overlooking from proposed new, upper-level hotel rooms towards adjoining properties to the north; and<br>• the sensitive location of plant equipment towards the centre of the site.<br><br>An analysis of the extent of impacts for properties facing each of the subject proposal's four elevations is provided below. |

Eastern Elevation (Orwell Lane)

A plan extract of the proposed eastern elevation is provided below:

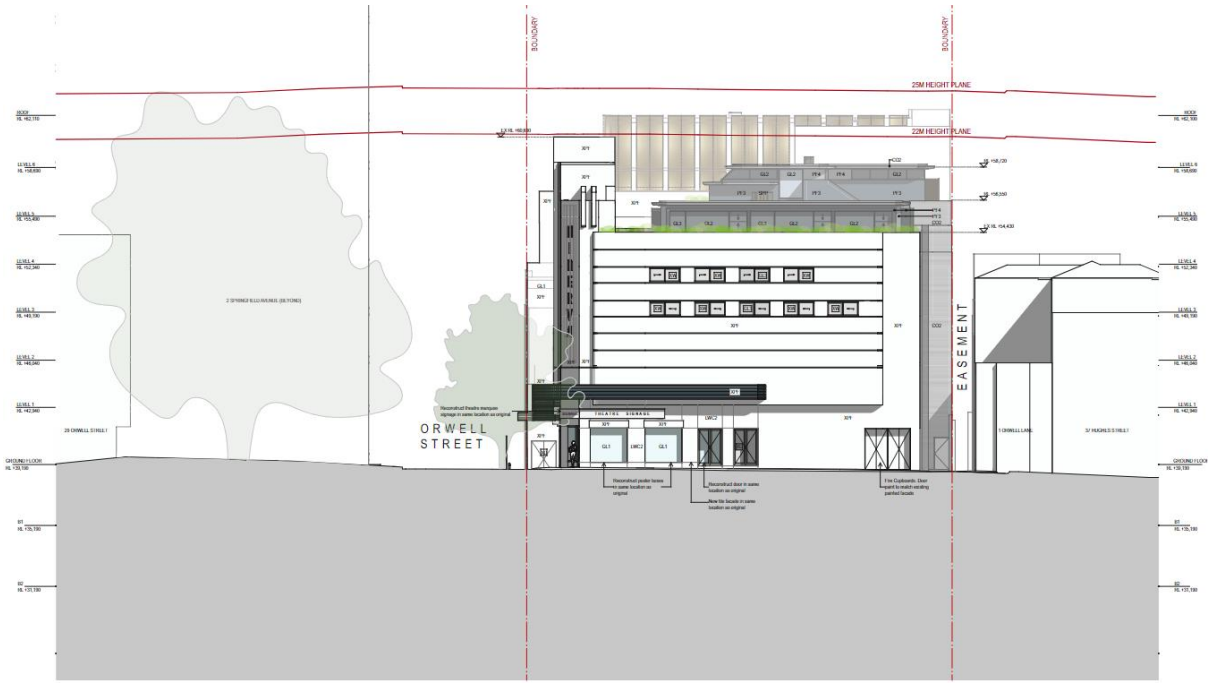


***Figure 14:*** *Eastern Elevation (Source: Tonkin Zulaikha Greer Architects)*

The main site directly affected is the rear elevations of the commercial "The Roosevelt" (very limited range of facing windows) and to a lesser extent, the "Ganray" mixed use apartment building to the north-east (windows for each of the units along this elevation, but with limited direct opportunity for overlooking from the Minerva site), on the opposite side of Orwell Lane.



***Figure 15:*** *The Roosevelt building opposite to the east (Source: City of Sydney Local Planning Panel Report 19 July 2023)*



***Figure 16:*** *View further to the north-east showing elevations of the rear of the Ganry and Byron Hall buildings (Macleay Street) (Source: City of Sydney Local Planning Panel Report 19 July 2023)*

In terms of potential for overlooking from the proposed development, minimal impacts are expected from the use of existing window openings for the proposed new hotel rooms on Levels 2 and 3 of Orwell Lane frontage.

A greater potential for overlooking arises from the new east-facing hotel rooms on Levels 4 and 5. The extent of this impact has been reduced to a reasonable level by the use of screening design elements to limit views from the windows of the hotel rooms and the stepping back and planter bed and balcony buffering of these two new levels from the Orwell Street and Orwell Lane frontages.

In terms of that portion of the non-compliant height of the upper flytower additions and new plant and access structures, these are at a much higher level above the eastern elevation, and its metal decorative screening will minimise any potential for direct overlooking of adjacent or nearby sites.

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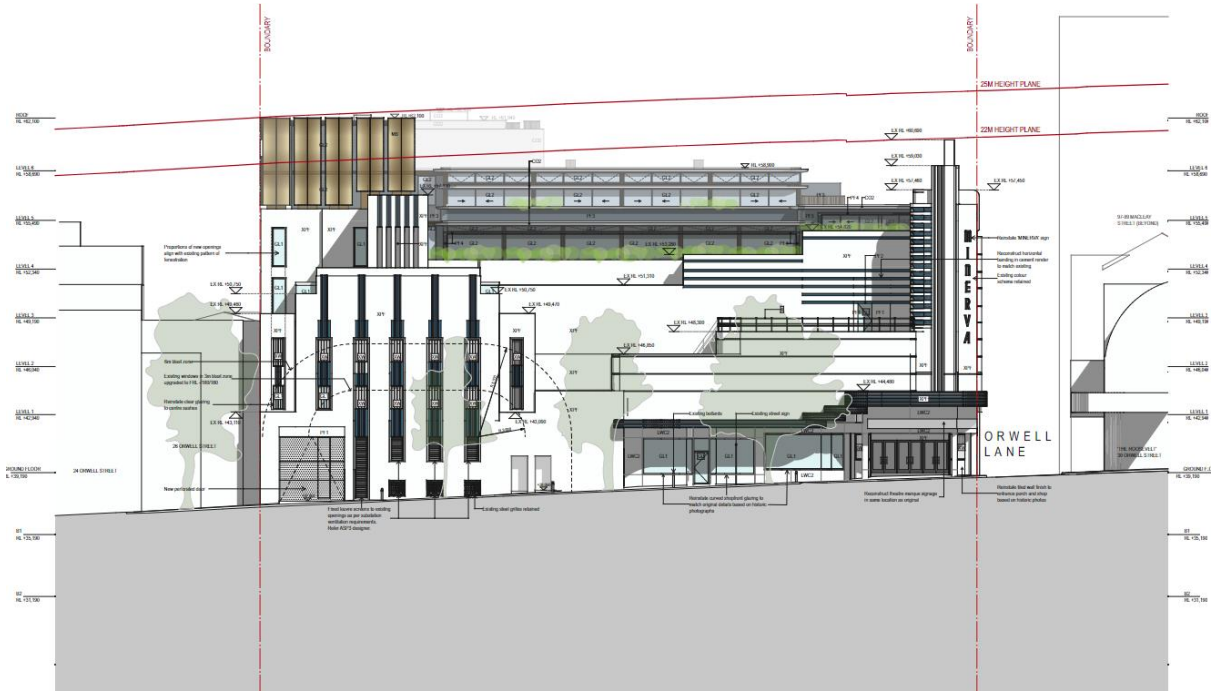
| | On that basis, the threat to a loss of privacy for surrounding properties is minimal from either the development along the eastern elevation, or the non-compliant height of the upper flytower additions and plant equipment and stairwell.<br><br><u>Southern Elevation (Orwell Street)</u><br><br>A plan extract of the proposed southern elevation is provided below:<br><br>  <br><br>***Figure 17:*** *Southern Elevation (Source: Tonkin Zulaikha Greer Architects)*<br><br>The main sites affected are from the northern facing windows of the apartments of the properties to the south-east, south and south-west, as shown in the photos below: |



***Figure 18:*** *The Gowrie Gate building opposite to the south-east (Source: City of Sydney Local Planning Panel Report 19 July 2023)*



***Figure 19:*** *Buildings opposite to the south and south-west (Source: City of Sydney Local Planning Panel Report 19 July 2023)*

The potential for overlooking from the southern elevation of the proposal has been minimised by the layering of setbacks of the Levels 4 and 5 of the new hotel rooms and their related balconies in the middle and eastern part of the site from the site's Orwell Street frontage.

Similarly, the proposed flytower addition has been setback from the Orwell Street frontage, and its metal decorative screening on the upper levels will minimise any potential for direct overlooking of adjacent or nearby sites.

Given the more substantive distance of the buildings to the south from the south facing windows of the new Levels 4 and 5 (the closest being 18.8 metres to the Gowrie Gate building to the south-east), the threat to a loss of privacy is minimal from either development along the eastern elevation, or the non-compliant height of the upper flytower additions.

Western Elevation

A plan extract of the proposed western elevation is provided below:

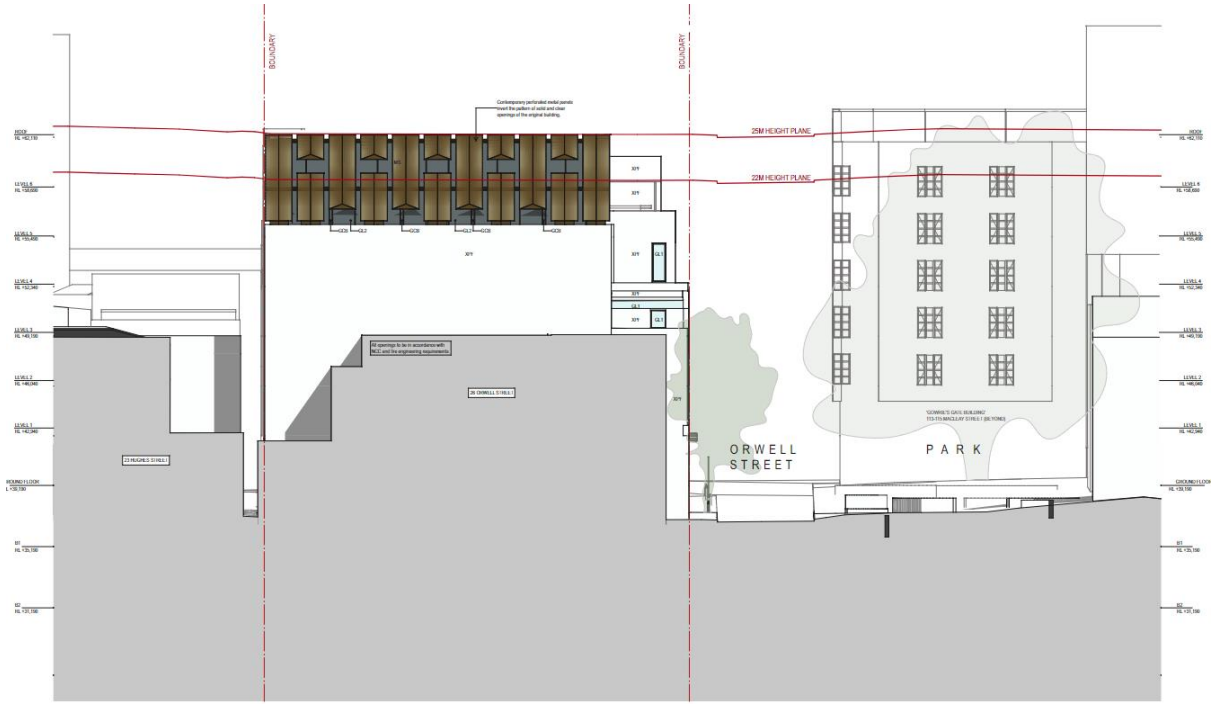



***Figure 20:*** *Western Elevation (Source: Tonkin Zulaikha Greer Architects)*

The main sites affected are the immediately adjoining site to the west, 26 Orwell Street, and adjoining properties further to the west along Orwell Street, as shown in the photo below:




***Figure 21:*** *View of 26 Orwell Street immediately to the west, and looking further west along Orwell Street (Source: Google Maps)*

Given the lack of windows along the existing and proposed elevations, and the metal decorative screening on Levels 5 and 6, the threat to a loss of privacy for properties to the west is very minimal, particularly from that part of the non-compliant height of the upper flytower additions.

Northern Elevation

A plan extract of the proposed northern elevation is provided below:




***Figure 22:*** *Northern Elevation (Source: Tonkin Zulaikha Greer Architects)*

The sites that have the greatest potential for a loss of privacy from the proposed development are those directly opposite the northern elevation, separated only by a limited access right of way (approximately 1.5 metres in width). The rear of these properties is shown in the aerial photo below.




***Figure 23:*** *View of the rear of properties immediately to the north (Source: City of Sydney Local Planning Panel Report 19 July 2023)*

The walls of the existing northern elevation of the main Minerva/Metro building and flytower wing are generally blank, with the exception of three small windows on the ground floor of the flytower wing.

The proposed northern elevation generally seeks to maintain these blank walls, with overlooking from these limited number of proposed hotel rooms on the new Levels 4 and 5 being restricted by the use of a series of blade walls and shroud projections between the hotel rooms. In addition, the metal decorative screening of the upper levels of the flytower additions will minimise any potential for direct overlooking of the properties to the north.

A more detailed analysis of the potential privacy impacts for the each of the main properties to the north is provided below:

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| | 1 Orwell Lane<br><br>This site consists of a heritage listed, two storey electricity substation building, with a dual frontage to both Orwell Lane and its southern boundary. There are a number of windows along its southern elevation, but given its restricted use, there are minimal privacy impacts expected.<br><br>  <br><br>***Figure 24:*** *View of the frontage of 1 Orwell Lane (Source: City of Sydney Local Planning Panel Report 19 July 2023)* |

27-37 Hughes Street – Wayside Chapel

These properties have a main frontage to Hughes Street, and are owned by the Wayside Chapel, consisting of three, 3-4 storey buildings all part of the charity/community service operations of the Wayside Chapel, consisting of a chapel, offices, crisis centre, meeting room, shop, café and a single dwelling. The rear elevations of these buildings are in close proximity and face the northern elevation of the Minerva/Metro Theatre site.

In 2008, the Wayside Chapel gained development consent (D/2008/912) for a major upgrade of the site, including the erection of a new four storey building on No. 27 Hughes Street. Extracts of the approved plans for this DA below provide a good guide to the current range of land uses and the extent of its visual access along the rear elevation of these buildings.



***Figure 25:*** *View of rear elevations of Nos. 27-37 Hughes Street and 1 Orwell Lane (Source: Extract from plans of approved D/2008/912 - City of Sydney)*

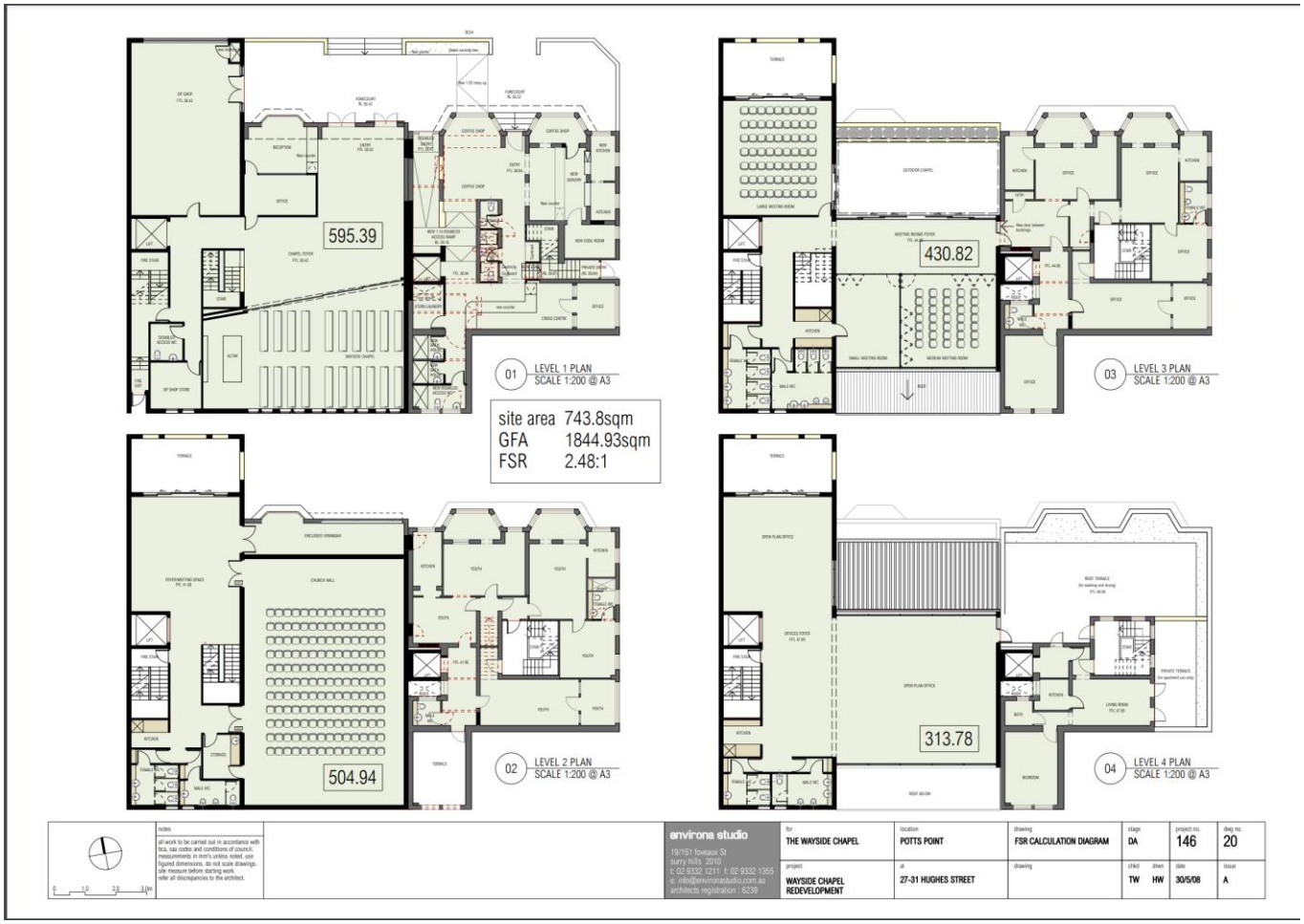


***Figure 26:*** *View of floor plans of Nos. 27-37 Hughes Street (Source: Extract from plans of approved D/2008/912 - City of Sydney)*

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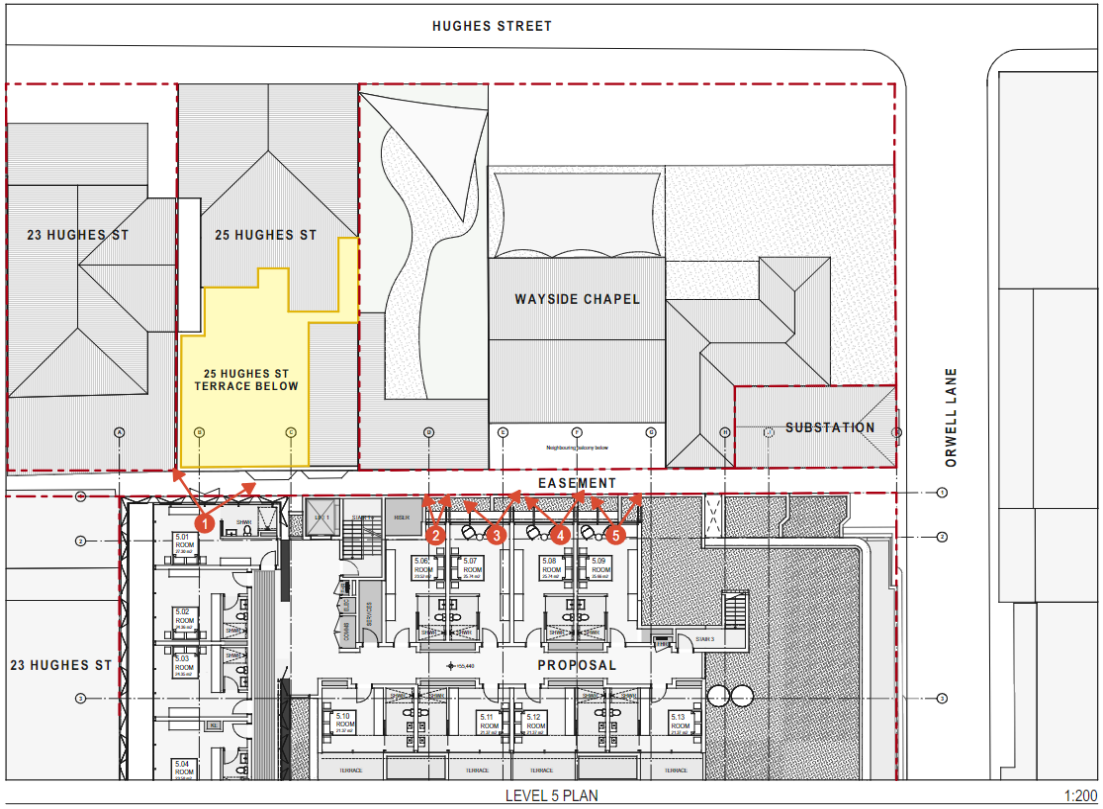
| | As shown in **Figure 25** above, the rear, four storey wing of the Wayside building at 31-37 Hughes Street contains south facing windows at each level. Of the four levels, only the top level (Level 4) is used as a residential dwelling. The other levels contain a variety of operational uses, such as an office, toilets and a terrace on Level 2.<br><br>In terms of the adjoining, more contemporary building, there are a series of south facing windows at various levels, on the western wing, whilst the other section is used primarily for the operations of the Wayside Chapel. The rear windows of the western wing are connected to areas used for toilet and other operational amenities on each level, whilst the adjoining wing is used as the primary assembly and operational space of the Chapel.<br><br>Given that the windows of the southern elevations of the Wayside buildings face the blank wall of the proposed northern elevation of the new development, and their spaces are primarily used for the daytime operational and community functions, it is considered that the any overlooking from the balconies and windows of Levels 4 and 5 of the northern section of the proposed hotel use will have minimal impact on the amenity of users of the Wayside Chapel.<br><br>It is also considered that the threat to a loss of privacy is minimal from the non-compliant height of the upper flytower additions.<br><br><u>Nos. 23 and 25 Hughes Street</u><br><br>Both of the southern elevations of these two buildings, one a 3 storey backpackers' hostel (23) and the other, a 4 storey residential flat building (25) have a series of south facing windows from their living spaces. The RFB at 25 Hughes Street also has a rear, upper-level community terrace adjoining the subject site, as shown in **Figure 27** below. |

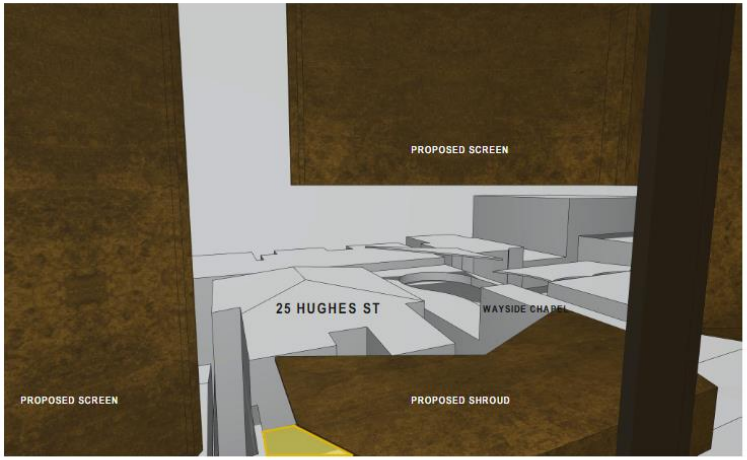


***Figure 27:*** *View of northern elevation of the existing Minerva/Metro Theatre flytower wing from the roof terrace of Nos. 25 Hughes Street (Source: City of Sydney Local Planning Panel Report 19 July 2023)*

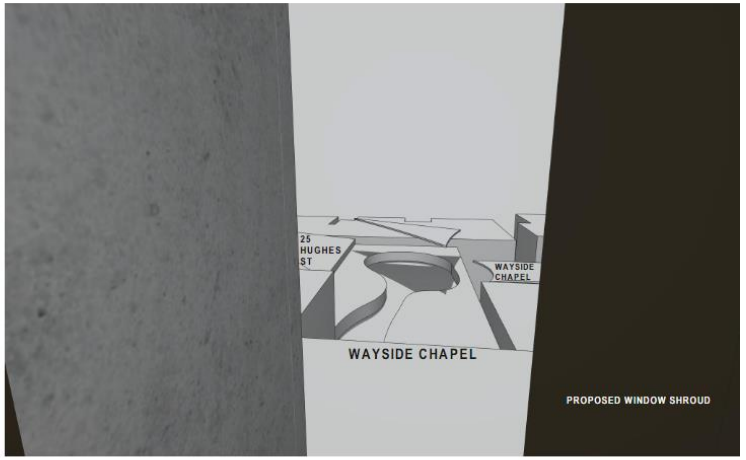
In response to the specific concerns raised at the 19 July 2023 Local Planning Panel meeting regarding the extent of loss of privacy for the rear of the properties directly to the north (in particular, 25 Hughes Street), additional 3D plan modelling of the view lines from the proposed, north-facing, hotel rooms on proposed Level 5 (Nos. 501 – Flytower, 5.06, 5.07, 5.08 and 5.09) and Level 6 (Flytower – 6.01) has been prepared and provided below to provide a more detailed analysis of these impacts. These plans are based on the latest amended architectural plans prepared by Tonkin Zulaikha Greer Architects.

**View from Level 5 Hotel Rooms**

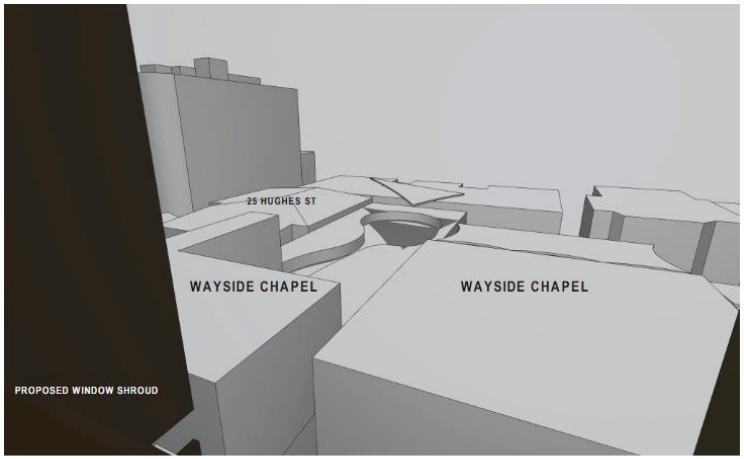




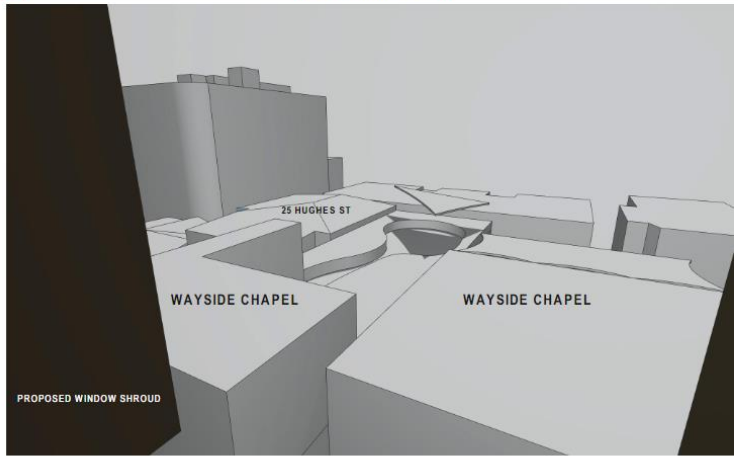

1 VIEW FROM ROOM 5.01



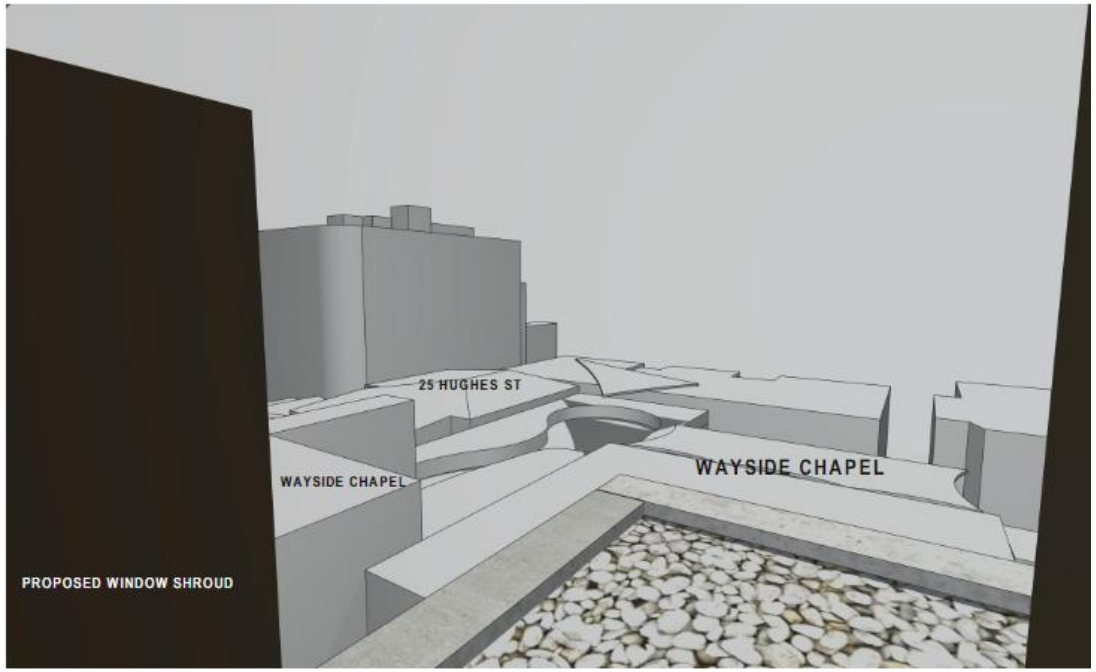

2 VIEW FROM ROOM 5.06




3 VIEW FROM ROOM 5.07




4 VIEW FROM ROOM 5.08




5 VIEW FROM ROOM 5.09

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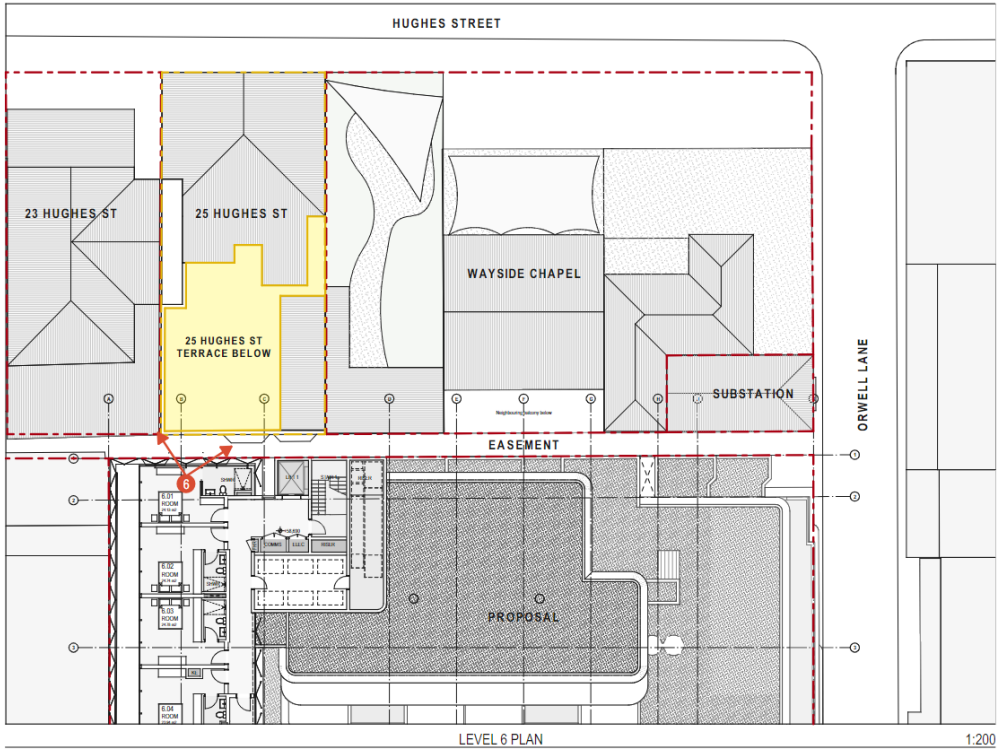
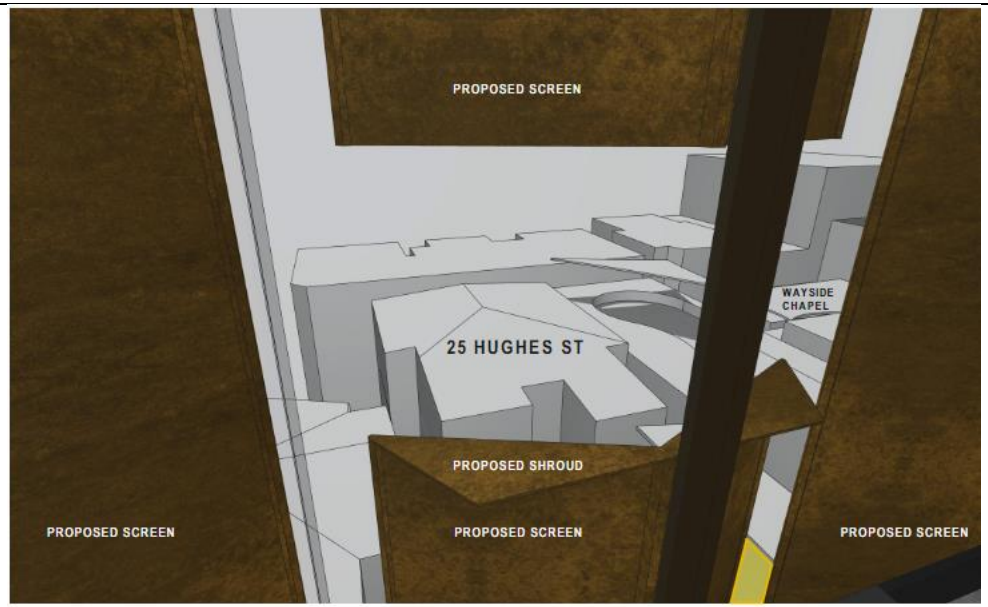
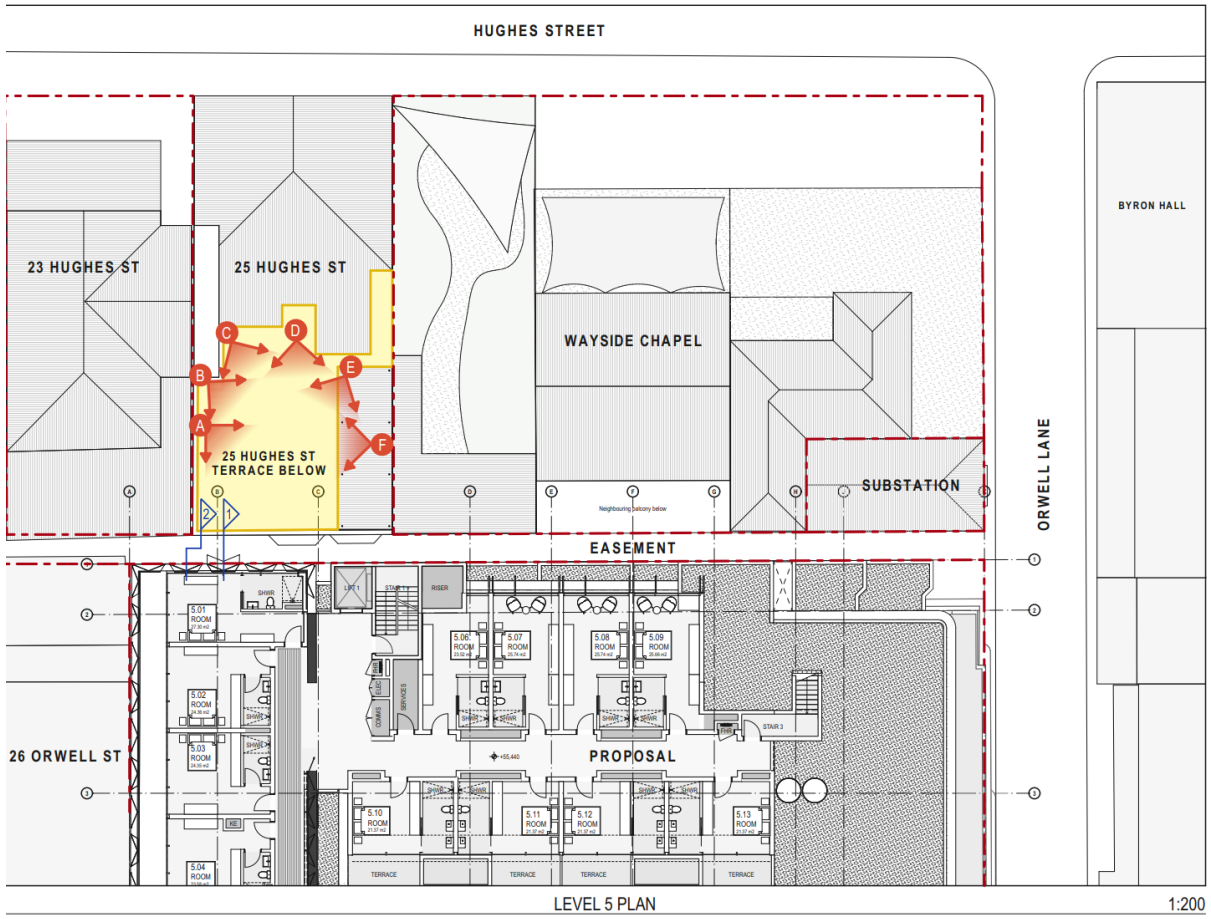
| | **Views from Level 6 Hotel Room**<br>  <br> |

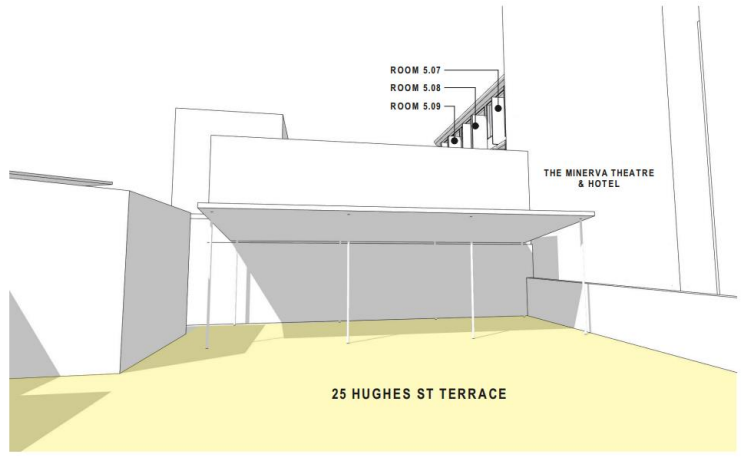



6 VIEW FROM ROOM 6.01

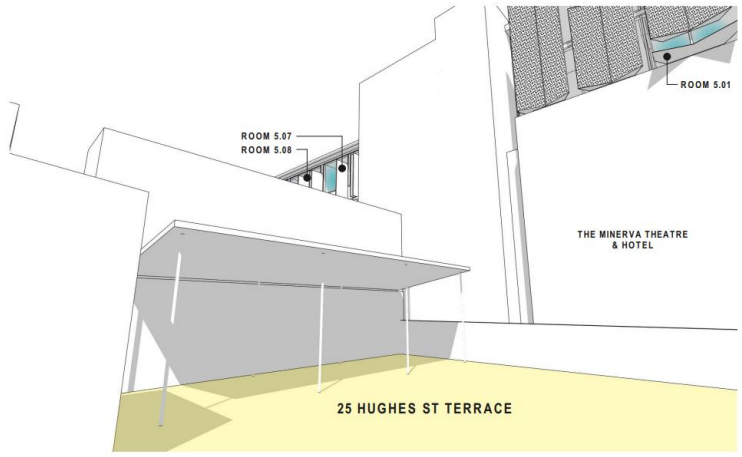
Each of the view lines provided above demonstrate that the potential for overlooking of the southern and side elevation windows and upper level terrace of 25 Hughes Street from the north-facing windows of the proposed Level 5 and Level 6 hotel rooms are extremely limited, given the height, distance and angle of these views, and further mitigated by the additional design elements of the shroud projections between hotel rooms, blade walls along the northern elevation, and the metal screening surrounding the upper level elevations of the Flytower additions. The image above from the proposed hotel room 6.01 in the flytower wing clearly demonstrates the relationship between the external screening, glazing line and views of the hotel guests. The guests have context specific framed views between the screening at 900mm-1800mm high, which with the offset from the glazing line, restricts the viewing aperture from hotel rooms to maintain privacy to neighbours, whilst still providing views to Sydney Harbour.

A further set of 3D and section plan modelling is provided below, to specifically demonstrate the minimal opportunity for overlooking from the proposed new Level 5 and Level 6 hotel rooms to the roof terrace of 25 Hughes Street, also prepared by Tonkin Zulaikha Architects.

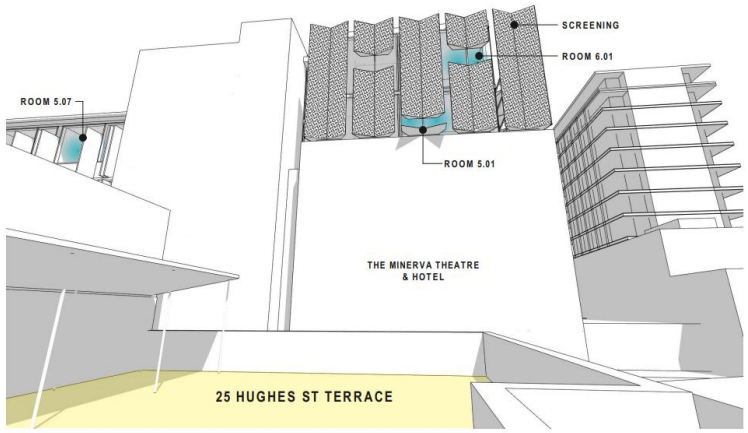

HUGHES STREET
23 HUGHES ST
25 HUGHES ST
25 HUGHES ST TERRACE BELOW
WAYSIDE CHAPEL
BYRON HALL
SUBSTATION
ORWELL LANE
EASEMENT
26 ORWELL ST
PROPOSAL
A
B
C
D
E
F
LEVEL 5 PLAN
1:200



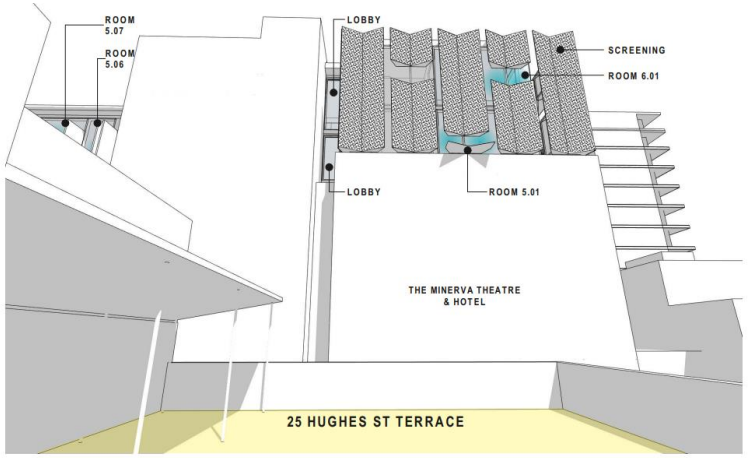

A VIEW A FROM 25 HUGHES ST TERRACE



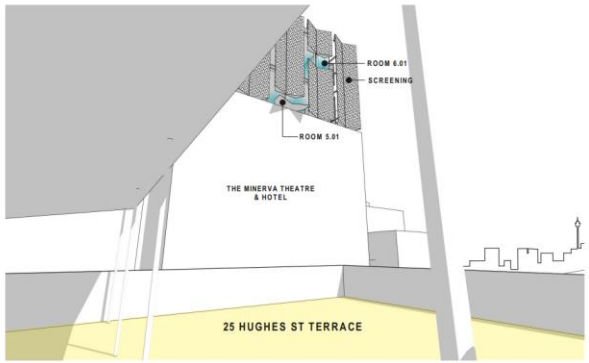

B VIEW B FROM 25 HUGHES ST TERRACE



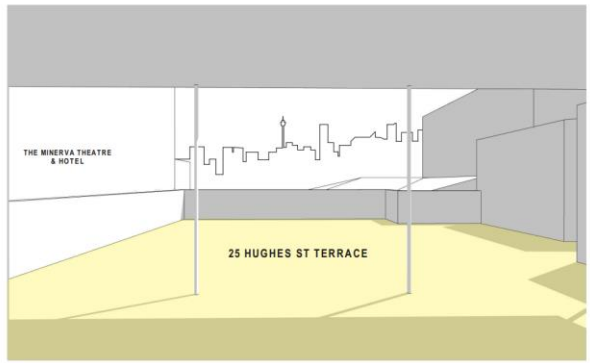

C VIEW C FROM 25 HUGHES ST TERRACE



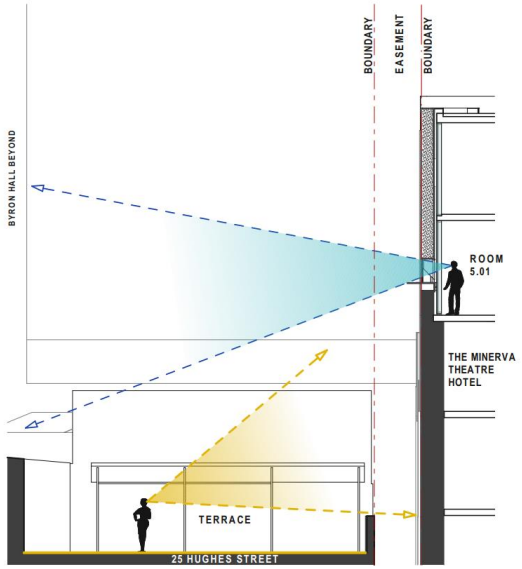

D VIEW D FROM 25 HUGHES ST TERRACE



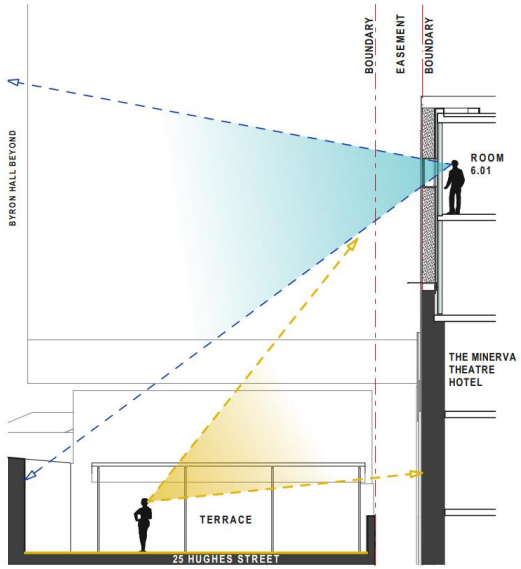

E VIEW E FROM 25 HUGHES ST TERRACE




F VIEW F FROM 25 HUGHES ST TERRACE




1 SECTION 1 - LEVEL 5 VIEW




2 SECTION 2 - LEVEL 6 VIEW

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| | **Residential Amenity Impacts – Noise**<br><br>Given the range of the publicly accessible and late night trading uses of the subject proposal (hotel, entertainment facility, café and small bar), a more detailed assessment of the potential noise impacts has been undertaken to support this application, particularly in respect of the requirements of SLEP 2012 and SDCP 2012.<br><br>In accordance with Section 3.15 of SDCP 2012 – Late Night Trading Management, a noise impact assessment (or acoustic) report, prepared by the firm Pulse White Noise Acoustics Pty Ltd was submitted with the original development application. The report was prepared on the following basis:<br><br>*"This assessment includes the acoustic investigation into the potential for noise impacts from the operation of the completed project, including entertainment operations, as well as potential noise impacts from existing noise sources within the vicinity of the site which predominantly includes traffic noise from surrounding noise sources."*<br><br>*The development will be assessed against relevant statutory regulations and guidelines including the Sydney Development Control Plan (DCP) 2012, Australian / New Zealand Standard AS/NZS 2107:2016 Acoustics - Recommended design sound levels and reverberation times for building interiors, the acoustic requirements of the Environment Protection Authority's (EPA) Noise Policy for Industry (NPI) and Liquor & Gaming NSW's noise criteria which is relevant for the assessment of licensed premises. The acoustic criteria required by the Building Code of Australia (BCA) section of the National Construction Code (NCC) for internal construction within the development will also be identified."*<br><br>Following a detailed assessment of these matters, the report concluded:<br><br>*"This report details the required acoustic constructions of the building's façade, including external windows, to ensure that the future internal noise levels comply with the relevant noise levels of the Australian Standard AS2107:2016. Providing the recommended constructions detailed in this report are included in the construction of the project the required internal noise levels will be achieved.*<br><br>*External noise emissions from the site have been assessed and detailed in accordance with the NSW Environmental Protection Authorities Noise Policy for Industry. The future design and treatment of all building services associated with the project can be acoustically treated to ensure all noise emissions from the site comply with the EPA NPfI* |

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| | *criteria including the following: 1. Operation of mechanical services on the site. 2. Operation of the proposed basement venues. 3. Us of the venue for cabaret or acoustic performances within the event atrium.*<br><br>*Providing the proposed acoustic treatments and controls detailed in this report are included in the design, construction and operation of the proposed development compliance with the relevant noise emissions criteria will be achieved."*<br><br>A Plan of Management was also submitted as part of the original development application to further address the requirements of Section 3.15 of SDCP 2012 and provide appropriate management procedures to minimise any of the noise and anti-social behaviour impacts of the site's future use.<br><br>As part of the planning report to the 19 July 2023 City of Sydney Local Planning Panel Meeting, it was identified that Council officers had reviewed both of these documents, and provided the following comments:<br><br>Acoustic Privacy<br><br>*"The Sydney DCP 2012 requires that a Noise Impact Assessment is provided for uses which may affect the acoustic privacy of adjacent residential uses. A Noise Impact Assessment has been provided which has been reviewed by Council's Acoustic Specialist. The submitted information has not demonstrated that the proposal is able to satisfy the relevant acoustic criteria based on the capacity and hours of operation proposed. Conditions are recommended in Attachment A to restrict the patron capacity and hours of operation."*<br><br>Plan of Management<br><br>*"A Plan of Management (Attachment F) has been submitted with the development application which generally satisfies the requirements of the Sydney DCP 2012. The Plan of Management has not provided management practices for operating with 450 patrons for up to 20 days per year. This is discussed further under the discussion heading below. A condition is included in Attachment A that requires the Plan of Management to be amended to ensure that it is consistent with the conditions of consent."*<br><br>As a means of addressing the above concerns, the Council officers recommended a series of draft conditions to restrict the initial operations of the proposed facilities, and allow for a 12 month trial period to assess the extent of any impacts for surrounding properties: |

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| | • The hours of operation for the entertainment facility, small bar and café will be restricted to 7am-11pm, Monday to Sunday, with an initial, 12 month trial allowing extended hours 11-12pm (the subject proposal sought later trading hours up until 2 and 3am);<br><br>• The capacity of the entertainment facility being restricted to 250 patrons (a maximum of 450 patrons proposed);<br><br>• Access and egress to the small bar, being restricted to Orwell Street, and not Orwell Lane; and<br><br>• The applicant's Plan of Management be modified to reflect these restrictions.<br><br>It should also be noted that there are a further, extensive range of amenity related conditions recommended by the Council officers in their recent report to the Local Planning Panel.<br><br>**<u>View Impacts</u>**<br><br>It is important to note that the proposed building envelope of this DA has been developed in consideration of the detailed design parameters provided by the City of Sydney's Design Advisory Panel concerning an earlier re-development proposal for the site (Advise sheet: No. 53/2019). According to the Panel, a successful strategy to the provision of a vertical addition to the building should consider the following: '*A thin tower may have less of an impact– allowing the character of the architecture of the rest of the existing building to remain intact, and result in less overshadowing of Springfield Gardens. Noting that the building height limit is 22m, the Panel suggested providing some* ***additional height for a tower element of up to 25m****, to encourage design excellence".* (**Emphasis Added**).<br><br>The SLEP and SDCP 2012 have a range of quantitative and qualitative controls to assess the impacts of new developments on the existing views of both the public domain and private properties. In terms of view corridors most relevant to developments in this locality, the most significant for residents in this locality are the Sydney Harbour Bridge, Sydney Harbour and CBD Skyline.<br><br>The assessment of view impacts was also undertaken in accordance with the view sharing principles and recommended practices of the judgement of the Land and Environment Court matter, *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140. |

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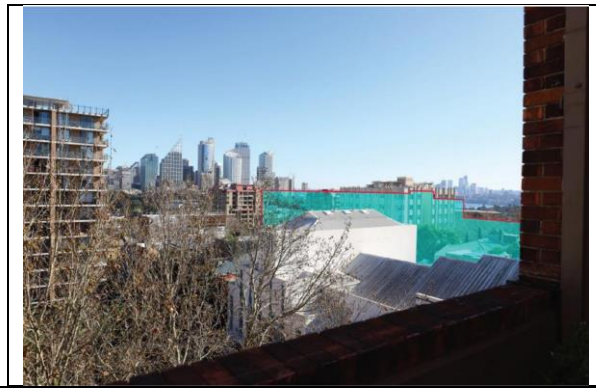
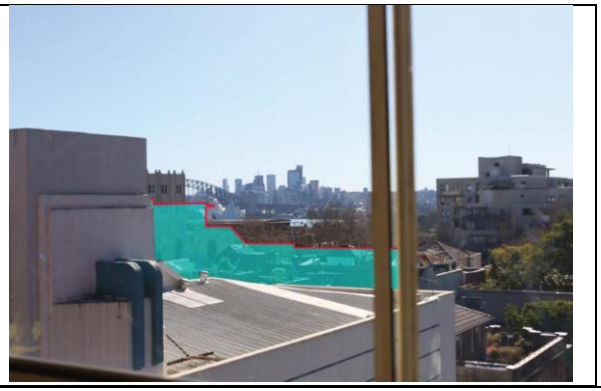
| | As a means of addressing these impacts, a Visual Impact Assessment Report was prepared by Urban Design Group and submitted with the original application. Following a request from Council staff, an amended report was submitted to provide an updated assessment of amended plans that redistributed floor space of the new additional hotel development away from the north-east and mid-part of the site, to the new additional levels above the flytower wing along the western boundary of the site. Among other amenity improvements, these amendments were advanced to address potential view loss from residential properties to the south of the site.<br><br>The results of the amended assessment indicated that the properties most likely to have the views of a limited number of upper level, residential dwellings affected by the proposed building envelope were the Gowrie Gate building (113-115 Macleay Street) to the south-east and 5-15 Orwell Street to the south-west.<br><br>In the further analysis of this assessment, and as identified in the planning report submitted, to the 19 July 2023 City of Sydney Local Planning Panel Meeting, these buildings were affected in the following manner:<br><br><u>5-15 Orwell Street</u><br><br>Existing views from Unit 1107 and the communal rooftop terrace will not be impact by the latest plans.<br><br><u>113-115 Macleay Street</u><br><br>Photomontages of the views from those four units most impacted by the latest amended plans are provided below:<br><br>   |

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| Unit 604, Level 6 | Unit 505, Level 5 |
|  |  |
| Unit 506, Level 5 | Unit 404, Level 4 |

***Figure 29:*** *Photomontages of View Impact Assessment of Units in 113-115 Macleay Street (Source: Extract from report to 19 July 2023 Local Planning Panel Meeting)*

On the basis of this assessment, the Council officers concluded:

> *"125. The view sharing assessment found that the protection of views from adjoining properties in not reasonable in this instance. This is due to several reasons outlined below:*
>
> *(a) Despite the proposal obscuring views from some apartments in buildings, the value of views that would be retained from these properties from other vantage points remains high, with Unit 604 retaining views towards Sydney Harbour Unit 505 retaining views to the Sydney Harbour Bridge and a partial view to the Opera House Unit 506 retaining a partial view to the City skyline Unit 404 retaining views to the Sydney Harbour Bridge to varying degrees within the apartment.*
>
> *(b) Only partial views of the Sydney Harbour Bridge, Opera House are currently achieved, with the nearest objector being 1.74 kilometres from the Opera House, 2.4 kilometres from the Sydney Harbour Bridge.*
>
> *(c) Opportunities for a more skilful design to reduce the view impact would result in other impacts, such as streetscape and heritage impacts."*

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| 1(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas, | As discussed above, the proposed addition is appropriately scaled and designed as a secondary component which defer to the architecture of the original building. The addition has been setback from the principal façades and adopts contemporary materials and colour palette to minimise the visual impact on the heritage listed building and the Potts Point Heritage Conservation Area (C51). |
| 1(c) to promote the sharing of views, outside Central Sydney, | There will be minimal impact on views to and from the heritage item as the proposed vertical addition above the flytower is setback from the principal elevation of the building and detailed as a discrete extension of the form below.<br>The Visual Impact Assessment by Urbaine Architecture which is submitted with the Development Application demonstrates that the significant district views, particularly from the neighbouring residential developments are protected. This assessment forms part of this clause 4.6 request. |
| 1(d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas, | Not applicable. |

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| 1(e) in respect of Green Square:<br>*(i) to ensure the amenity of the public domain by restricting taller buildings to only part of a site, and*<br>*(ii) to ensure the built form contributes to the physical definition of the street network and public spaces.* | Not applicable. |

In conclusion. compliance with the maximum height development standard is unreasonable or unnecessary in the circumstances of this proposed development because the objectives of the height standard is achieved notwithstanding the non-compliance.

2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

   The underlying objective or purpose of the height standard is relevant. As demonstrated above, the proposal retains consistency with the objectives of Clause 4.3 of the SLEP 2012, despite non-compliance.

3. the underlying object of purpose would be defeated, thwarted or undermined if compliance was required and therefore compliance is unreasonable;

   In *Linfield Developments Pty Ltd v Cumberland Council* [2019] NSWLEC 131 it was accepted (at [24]) that these grounds could extend to circumstances where the object of a purpose was **undermined.**

   Clause 4.3(1)(a)-(b) of the Sydney LEP is as follows:

   > *(a) to ensure the height of development is appropriate to the condition of the site and its context,*
   >
   > *(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,*

   For reasons described above (in dealing with the first ground under Wehbe) and further detailed below (in relation to environmental planning grounds) a compliant development would:

   - undermine objective 1(a) in that the compliant development would be less adapted to the condition of the site and its context that the proposed development; and
   - undermine objective 1(b) in that the compliant development would have less appropriate height transitions between new development and the existing heritage fabric on the site than the proposed development.

   The underlying objectives or purpose of the standard would be undermined if compliance was required.

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

   Council has varied the height of building standard in circumstances where the objectives of the standard are achieved. It is not suggested that the standard has been abandoned.

5. the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

   The proposed zoning of the land is reasonable and appropriate.

   Strict compliance with the height of building development standard is unreasonable and unnecessary in the circumstances of the proposed development in that:

   - The proposal is consistent with the objectives of the 'Height of Building Standard" as detailed above;
   - A strictly height-compliant proposal would undermine objectives 1(a)-(b) of the 'Height of Building Standard' as detailed above;
   - The vast majority of the proposed building envelope is below or in line with the 22m height limit. As such, the scale of the building remains consistent with the desired character of the locality notwithstanding the proposed minor variation;
   - The proposal retains, conserves and adapts to the building, respecting its aesthetic significance. The existing streetscape is varied, with a range of scales and architectural styles. The proposed additions have been designed to minimise visual impacts on the streetscape and the local Heritage Conservation Area; and
   - The proposed variation to the Height of Buildings control does not give rise to an impact on the amenity of the locality.

   As the proposal is consistent with the objectives of the height of buildings standard, compliance with the development standard is considered to be unreasonable and unnecessary in the circumstances of the case.

## Clause 4.6(3)(b) Are there are sufficient environmental planning grounds to justify contravening the development standard?

An assessment of the broader environmental impacts of the subject proposal were addressed in the earlier section of this report, *"Clause 4.6(3)(a) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?"*

A major part of this assessment also has strong relevance in an assessment of the more specific impacts of that part of the proposed building envelope that is non-compliant with the maximum 22 metre height restriction of Cl 4.3 of SLEP 2012.

As identified earlier, the vast majority of the proposed building envelope is below or in line with the 22m height limit. However, the proposed maximum building height, as measured from the 'existing' ground level', is 24.92m at the parapet of the proposed vertical addition above the flytower of the theatre as indicated in the architectural drawings prepared by Tonkin Zulaikha Greer Architects. Therefore, the proposed development breaches the height standard by a maximum of 2.92m (13.27%).

The exceedance, being the portion of the building above the 22m height limit, is attributed to the proposed two storey hotel addition to the flytower (RL +62.10 or 24.92m) along the western boundary and the adjacent vertical circulation element (RL +61,39 or 24.76m) proposed to provide lift and fire egress throughout the building.

The further assessment below provides a specific focus on the extent of impacts arising from the non-compliant part of the proposed building envelope. It addresses both the lack of amenity impacts arising from the proposed height contravention, as well as the environmental planning benefits of allowing the contravention. The lack of amenity impacts can be a reason advanced in support of environmental planning grounds, when it is accompanied by other reasons too (cf Big Property Group Pty Ltd v Randwick City Council [2021] NSWLEC 1161 at [49]).

**Visual Impacts**

Similar to the broader assessment, the concentrated massing of floor space above the existing flytower wing, and the adjoining plant equipment provides the least overall visual impact across the remaining part of the site when viewed from both the public domain of the main street frontages, Orwell Street and Orwell Lane, and surrounding properties.

The impacts of the non-compliant portion of the building height in this location are also less significant given the identifiable height of the existing flytower wing.

**Overshadowing Impacts**

The shadow diagrams provided to accompany this application, and subsequent amended plans, clearly identify that the proposed building envelope will only have a very minimal overshadowing impact on a limited number of properties to the south and south-east, as well as the public open space, Springfield Reserve, in mid winter. The latest proposed envelope is also compliant with the solar access controls of SLEP and SDCP 2012.

The non-compliant section of the building height above the existing flytower wing and adjoining plant equipment has only a limited component of the overall overshadowing impact of the amended building envelope, and a compliant building height in this location would provide only a limited amount of additional mid-winter solar access for those most affected properties.

The alternative of reallocating higher built forms in the mid and north-east of the site was not supported by Council officers during the DA Process, given its potential to create a greater degree of overshadowing for a greater number of properties and Springfield Reserve to the south.

**Residential Amenity Impacts – Visual Privacy**

The earlier section addressing Clause 4.6(3)(a) provided a very detailed analysis of the potential impacts upon the visual privacy of all the elevations of the proposed building envelope. This assessment concluded that the massing of floor space above the flytower wing, and the significant setbacks provided from the new hotel additions and their frontages to Orwell Street and Orwell Lane, greatly reduced the potential for overlooking to surrounding residential properties and other buildings.

Those parts of the flytower wing and plant/access structures that exceed the 22 metre height restriction provide very limited opportunity for overlooking of adjoining and surrounding properties (given the metal decorative screening applied to the hotel addition and windowless plant/access

structures), and are located well above most adjoining and surrounding residential properties, particularly those properties to the north of the site.

**Residential Amenity Impacts - Noise**

Similar to the visual privacy issue, those parts of the proposed envelope and plant equipment that exceed the 22 metre height limit are well screened and located well above, and are reasonably separated from most surrounding residential properties, and are therefore unlikely to result in any unreasonable noise generation.

As identified in the earlier Clause 4.6(3)(a) section, the application has been accompanied by both an Acoustics report and Plan of Management to address the requirements of Section 3.15 – Late Night Trading of SDCP 2012 and provide appropriate management procedures to minimise any of the noise and anti-social behaviour impacts of the site's future use.

As a means of further mitigating these potential impacts, the Council officers recommended a series of draft conditions in the recent report to the Local Planning Panel to restrict the initial operations of the proposed entertainment and bar facilities, and allow for a 12 month trial period to assess the extent of any impacts for surrounding properties:

- The hours of operation for the entertainment facility, small bar and café will be restricted to 7am-11pm, Monday to Sunday, with an initial, 12 month trial allowing extended hours 11-12pm (the subject proposal sought later trading hours up until 2 and 3am);

- The capacity of the entertainment facility being restricted to 250 patrons (a maximum of 450 patrons proposed);

- Access and egress to the small bar, being restricted to Orwell Street, and not Orwell Lane; and

- The applicant's Plan of Management be modified to reflect these restrictions.

**View Impacts**

The very detailed view impact analysis that accompanied both the original application and subsequent plan amendments, have closely examined the potential view loss of those surrounding residential properties with views to the Sydney Harbour Bridge, Sydney Harbour and the Sydney CBD skyline.

As with the other main environmental impacts above, the applicant has worked closely with Council staff to produce an overall building envelope and floor space massing which provide the least impact on existing views of surrounding residents, and through various plan amendments made throughout the DA process, the view impact analysis demonstrated that the latest plans will result in only a minimal loss of significant views to a limited number of residential units in the upper levels of the Gowrie Gate building (113-115 Macleay Street) to the south-east.

In the recent report on this DA to the Local Planning Panel, the Council officers supported this assessment of the view impacts of the latest building envelope plans, and recognised that the design satisfied the view sharing principles and recommended practices of the judgement of the Land and Environment Court matter, Tenacity Consulting v Warringah Council [2004] NSWLEC 140.

It is therefore considered that it would be unreasonable to seek any further reduction of that part of the flytower wing additions and plant/access structures which are non-compliant with the 22 metre SLEP 2012 height restriction, as it is unlikely to provide any further substantive view impact improvement for those four residential units in the Gowrie Gate building identified as the most affected by the current proposal.

## Clause 4.6(4)(a)(i) consent authority satisfied that this written request has adequately addressed the matters required to be demonstrated by Clause 4.6(3)

Clause 4.6(4)(a)(i) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3).

These matters are comprehensively addressed above in this written request with reference to the five-part test described in *Wehbe v Pittwater Council* [2007] NSWLEC 827 for consideration of whether compliance with a development standard is unreasonable or unnecessary in the circumstances of the case. In addition, the establishment of environmental planning grounds is provided, with reference to the matters specific to the proposal and site, sufficient to justify contravening the development standard.

## Clause 4.6(4)(a)(ii) consent authority satisfied that the proposal is in the public interest because it is consistent with the zone and development standard objectives

Clause 4.6(4)(a)(ii) states that development consent must not be granted for development that contravenes a development standard unless the consent authority is 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.

### Objective of the Development Standard

The consistency of the proposed development with the specific objectives of the height of buildings development standard is addressed above.

### Objectives of the Zone

Clause 4.6(4) also requires consideration of the relevant zone objectives. The site is located within the MU1 - Mixed Use. The objectives of the zone are:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*

- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To ensure land uses support the viability of nearby centres.*
- *To integrate suitable business, office, residential, retail and other land uses in accessible locations that maximise public transport patronage and encourage walking and cycling.*

The subject proposal meets the objectives for the zone in that:

- The proposed development includes '*hotel and motel accommodation'*, '*entertainment facility*' and complementary '*food and drink premises*' which are permissible with consent within a MU1 – Mixed Use Zone.
- The proposal will see the subject site continue to connect with its rich history through its reinstated function as a performance venue, while also bringing new visitors via the proposed hotel and food and beverage spaces.
- The mix of uses will enhance the distinctive, mixed character of the Potts Point locality.
- The development will have a positive economic impact on the Potts Point area with the potential to attract visitors to the area and to provide employment opportunities.
- The site has excellent access to public transport being located in close proximity to the Kings Cross Railway Station to the south, which provides excellent access to the Eastern Suburbs & Illawarra Line. The nearest bus stop is located on Macleay Street which provides frequent public bus services to the CBD and eastern suburbs.

For the reasons given the proposal is consistent with the objectives of the MU1 zone.

## Conclusion

Strict compliance with the height of buildings development standard contained within clause 4.3 of the Sydney Local Environmental Plan 2012 has been found to be unreasonable and unnecessary in the circumstances of the proposed development. Further, there are sufficient environmental planning grounds to justify the proposed variation. In this regard, it is appropriate to vary the height of buildings development standard to the extent proposed.

# Attachment D

## General Terms of Approval – Heritage NSW

## Department of Planning and Environment

HMS ID: 4528
Your ref: CNR-26452 - D/2021/893

Matthew Girvan
Planner
City of Sydney Council
GPO BOX 1591
SYDNEY NSW 2001
**By email**: mgirvan@cityofsydney.nsw.gov.au

Dear Mr Girvan

# HERITAGE COUNCIL OF NSW – REVISED GENERAL TERMS OF APPROVAL

## Integrated Development Application

| | |
|---|---|
| **Address:** | 28-30 Orwell Street POTTS POINT NSW 2011 |
| **SHR item:** | The Metro Theatre (formerly Minerva Theatre), SHR no. 02049 |
| **Proposal:** | CNR-26452 - D/2021/893<br>ALTERATIONS AND ADDITIONS TO THE MINERVA BUILDING AND ITS ADAPTIVE REUSE FOR THE PURPOSES OF ENTERTAINMENT FACILITIES, FOOD & DRINK PREMISES AND TOURIST AND VISITOR ACCOMODATION |
| **IDA application no:** | HMS ID 4528 |

As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above integrated development application. In accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the following general terms of approval are granted:

## Approved development

1. Development must be in accordance with:
   a. Architectural drawings, prepared by Tonkin Zulaikha Greer as listed below:

| Dwg No | Dwg Title | Date | Rev |
|---|---|---|---|
| **Project Name: The Minerva** | | | |
| A-000 | Cover Page | 16/08/2023 | F |

| Dwg No | Dwg Title | Date | Rev |
|---|---|---|---|
| A-001 | Site Plan | 1/03/2023 | - |
| A-002 | Site Analysis | 1/03/2023 | - |
| A-050 | Basement 3&4 Demolition Plan (BLANK) | 1/03/2023 | A |
| A-051 | Basement 2 Demolition Plan | 1/03/2023 | B |
| A-052 | Basement 1 Demolition Plan | 1/03/2023 | B |
| A-053 | Ground Demolition Plan | 1/03/2023 | C |
| A-054 | Level 1 Demolition Plan | 1/03/2023 | C |
| A-055 | Level 2 Demolition Plan | 1/03/2023 | - |
| A-056 | Level 3 Demolition Plan | 1/03/2023 | A |
| A-057 | Level 4 Demolition Plan | 1/03/2023 | A |
| A-058 | Level 5 Demolition Plan | 1/03/2023 | A |
| A-059 | Roof Demolition Plan | 1/03/2023 | - |
| A-060 | Ground RCP Demolition | 1/03/2023 | A |
| A-061 | Level 1 RCP Demolition | 1/03/2023 | - |
| A-062 | Level 3 RCP Demolition | 1/03/2023 | A |
| A-070 | Demolition South Elevation | 1/03/2023 | B |
| A-071 | Demolition North Elevation | 1/05/2023 | C |
| A-072 | Demolition East Elevation | 1/03/2023 | C |
| A-073 | Demolition West Elevation | 1/03/2023 | C |
| A-080 | Long Section Demolition | 1/03/2023 | D |
| A-081 | Cross Section A Demolition | 1/03/2023 | D |
| A-102 | Basement 2 Floor Plan | 16/08/2023 | F |

| Dwg No | Dwg Title | Date | Rev |
|---|---|---|---|
| A-103 | Basement 1 Floor Plan | 16/08/2023 | E |
| A-104 | Ground Floor Plan | 16/08/2023 | I |
| A-105 | Level 1 Plan | 16/08/2023 | G |
| A-106 | Level 2 Plan | 16/08/2023 | G |
| A-107 | Level 3 Plan | 16/08/2023 | D |
| A-108 | Level 4 Plan | 16/08/2023 | E |
| A-109 | Level 5 Plan | 16/08/2023 | F |
| A-110 | Level 6 Plan | 16/08/2023 | E |
| A-111 | Roof Plan | 16/08/2023 | D |
| A-121 | Auditorium RCP Proposed Ground Floor – Level 3 | 1/03/2023 | D |
| A-200 | South Elevation | 1/03/2023 | D |
| A-201 | South Elevation Fly Tower Façade | 1/03/2023 | E |
| A-202 | North Elevation | 16/08/2023 | E |
| A-203 | North Elevation Fly Tower Façade | 16/08/2023 | F |
| A-204 | East Elevation | 16/08/2023 | E |
| A-205 | East Elevation Fly Tower Facade | 16/08/2023 | E |
| A-206 | West Elevation | 1/03/2023 | C |
| A-207 | West Elevation Fly Tower Façade | 1/03/2023 | C |
| A-208 | West Elevation Inner Façade | 1/03/2023 | D |
| A-210 | Signage Strategy – South Elevation | 1/03/2023 | C |
| A-211 | Signage Strategy – East Elevation | 1/03/2023 | D |
| A-300 | Longitudinal Section 1 | 1/03/2023 | E |

| Dwg No | Dwg Title | Date | Rev |
|---|---|---|---|
| A-301 | Cross Section 1 | 1/03/2023 | E |
| A-302 | Cross Section 2 | 1/03/2023 | E |
| A-303 | Longitudinal Section 2 | 16/08/2023 | F |
| A-304 | Longitudinal Section 3 | 1/03/2023 | E |
| A-305 | Cross Section 3 | 1/03/2023 | E |
| A-306 | Section: Sun Shadow Analysis | 1/03/2023 | A |
| A-400 | Perspective Images – 1 | 1/03/2023 | B |
| A-401 | Perspective Images – 2 | 1/03/2023 | - |
| A-402 | Perspective Images – 3 | 1/03/2023 | - |
| A-403 | Perspective Images – 4 | 1/03/2023 | A |
| A-500 | Shadow Diagrams – 21 June (1of 2) | 1/03/2023 | B |
| A-501 | Shadow Diagrams – 21 June (2of 2) | 1/03/2023 | B |
| A-600 | GFA Diagrams | 16/08/2023 | E |
| A-601 | Materials Board | 1/03/2023 | C |
| A-602 | Flytower Window Schedule | 1/03/2023 | D |
| A-603 | Flytower Schedule Room Area Plans | 1/03/2023 | B |
| A-605 | LEP VS Proposed Height Comparison | 16/08/2023 | A |
| A-606 | 22m Height Plane | 16/08/2023 | - |
| A-607 | View Diagrams | 21/08/2023 | - |
| A-608 | Reversibility Potential | 17/08/2023 | - |
| A-609 | View Diagrams from 25 Hughes St Terrace | 21/08/2023 | - |

b. Fire Safety Sprinkler System Drawings, prepared by LCI as listed below:

| Dwg No | Dwg Title | Date | Rev |
|---|---|---|---|
| **Project Name: The Minerva** | | | |
| 220459-F100 | Fire Services – Level 2 Sprinkler Layout | 7/02/2023 | A |
| 220459-F100 | Fire Services – Level 2 Sprinkler Layout | 7/02/2023 | A |

c. Public Domain Plan, prepared by Arcadia as listed below:

| Dwg No | Dwg Title | Date | Rev |
|---|---|---|---|
| **Project Name: Metro Minerva theatre** | | | |
| L-000 | Cover page | 18.11.22 | B |
| L-101 | Landscape Masterplan Public Domain | 18.11.22 | B |
| L-201 | Setout + Grading Public Domain Plans | 18.11.22 | B |

d. *Statement of Heritage Impact- Rev 2*, prepared by Tonkin Zulaikha Greer, dated June 2022
e. *Conservation Management Plan*, prepared by Tanner Kibble Denton, dated June 2020.
f. *Statement of Environmental Effects*, prepared by Planning Lab, dated 29 July 2021
g. *Heritage Interpretation Strategy*, prepared by Tonkin Zulaikha Greer, dated July 2021
h. *Baseline Archaeological Assessment*, prepared by Archaeological Management & Consulting Group, dated 13 July 2021.
i. *Archaeological Research Design & Excavation Methodology*, prepared by Archaeological Management & Consulting Group, dated November 2022
j. *Historical Archaeology Test Excavation Report*, prepared by Archaeological Management & Consulting Group, dated May 2022
k. Technical Memo Titled *Piling, vibration and impact on existing footing details*, prepared by Taylor Thomas Whitting, dated 20 July 2022.
l. Technical Memo for *Additional information requested relating to locations of columns and shear walls*, prepared by Taylor Thomas Whitting, dated 18 April 2023
m. *Structural Methodology & Construction Sequence*, prepared by Taylor Thomas Whitting
n. *Alterations And Additions to The Minerva Theatre – Clause 4.6 Variation Request*, prepared by Planning Lab, dated 22 August 2023
o. *Auditorium Methodology Report*, prepared by Taylor Thomas Whitting, dated 24 May 2022
p. *View Loss Assessment*, prepared by Urbaine Design Group, dated 17 February 2023
q. *Visual Impact Assessment*, prepared by Urbaine Design Group, dated August 2022
r. *Façade Study,* prepared by Tonkin Zulaikha Greer
s. *Levels 1 & 2 Relationship to Façade*, prepared by Tonkin Zulaikha Greer, dated 13 April 2023
t. *Section to Demonstrate Extent of Retained Existing Northern Wall*, prepared by Tonkin Zulaikha Greer, dated 13 April 2023

u. Letter titled *Development Application No 2021/893 Response to City Sydney Request for Information*, prepared by Central Element, dated 23 August 2023.
v. *Structural Diagram 1 & 2*, prepared by Tonkin Zulaikha Greer, dated 14 April 2023

## EXCEPT AS AMENDED by the General Terms of Approval:

### DETAILS TO BE SUBMITTED FOR APPROVAL

2. The following information is to be submitted with the s60 application for approval by the Heritage Council of NSW (or delegate):
   a. Revised construction methodology drawings and structural sequencing reflecting the updated proposal.
   b. Structural adequacy report of the upper stalls/balcony and their ability to withstand additional load.
   c. Detailed drawings providing further details on the facilities required to operate the entertainment venue including lighting, green rooms, backstage storage, sound, etc., to maintain as much of the original heritage fabric and form as possible.
   d. Detailed drawings that consider compliance with building standards, safety and access.
   e. Minimise the number of openings to reduce impact on eastern and western elevations. The openings should be articulated to be sympathetic to the style of the existing Interwar heritage facades.
   f. Detailed inventory, condition and significance assessment of all existing fabric and a detailed schedule of conservation works.
   g. Provide an inventory of significant fabric being salvaged for reuse within the building or used as part of interpretation.
   h. An inventory of moveable heritage items associated to the significant historical occupancy of the building be recorded. The inventory should identify items, their storage (short and long term) and their eventual relocation within the site.

*Reason: The details requested were not supplied during the assessment of the application. The subject site contains historical archaeological relics, which are protected under the Heritage Act 1977 and must be managed appropriately.*

### HERITAGE CONSULTANT

3. A suitably qualified and experienced heritage consultant must be nominated for this project. The nominated heritage consultant must provide input into the detailed design, provide heritage information to be imparted to all tradespeople during site inductions, and oversee the works to minimise impacts to heritage values. The nominated heritage consultant must be involved in the selection of appropriate tradespersons and must be satisfied that all work has been carried out in accordance with the conditions of this consent.

*Reason: So that appropriate heritage advice is provided to support best practice conservation and ensure works are undertaken in accordance with this approval.*

### SPECIALIST TRADESPERSONS

4. All work to, or affecting, significant fabric shall be carried out by suitably qualified tradespersons with practical experience in conservation and restoration of similar heritage structures, materials, and construction methods.

*Reason: So that the construction, conservation, and repair of significant fabric follows best heritage practice.*

**SITE PROTECTION**

5. Report outlining a program of monitoring and mitigation measures to be undertaken before, during and after construction. The report should address the following aspects:
    a. Strict ring fencing of allowable demolition, and necessary conservation works, as the builder's value engineering may lead to further loss of existing building to save cost and enable construction.
    b. The piles are very close to the existing structure. It is critical to set parameters to preserve the existing building from damage from vibration, and lateral and vertical movement of the existing foundation to be retained.
    c. The vibration levels set by the German Standard are the minimum requirement for vibration and lateral movement of the retained ground behind the perimeter piles to be limited to 0.001% of the retained height. Furthermore, the loads affecting these movements are to be doubled of the normal design loads to provide some assurance against likely failure of the system.
    d. The monitoring setup to remain permanently with the building (e.g., monitoring vibrations and relative movements) for future condition assessments.
    e. These measures are to be monitored by an independent body.

6. Significant built and landscape elements are to be protected during site preparation and the works from potential damage. Protection systems must ensure significant fabric, including landscape elements, is not damaged or removed.

*Reason: To ensure significant fabric is protected during construction.*

**HERITAGE INTERPRETATION PLAN**

7. An interpretation plan must be prepared in accordance with the Heritage NSW publication 'Interpreting Heritage Places and Items Guidelines' (2005) and submitted for approval to the Heritage Council of NSW (or delegate) prior to the issue of a Construction Certificate/ Government certification.
8. The interpretation plan must detail how information on the history and significance of name of item will be provided for the public, and make recommendations regarding public accessibility, signage, and lighting. The plan must identify the types, locations, materials, colours, dimensions, fixings and text of interpretive devices that will be installed as part of this project.
9. The approved interpretation plan must be implemented prior to the issue of an Occupation Certificate.

*Reason: Interpretation is an important part of every proposal for works at heritage places.*

**PHOTOGRAPHIC ARCHIVAL RECORDING**

10. A photographic archival recording must be prepared prior to the commencement of works, during works and at the completion of works. 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 Heritage NSW, Department of Premier and Cabinet.

***Reason**: To capture the condition and appearance of the place prior to, and during, modification of the site which impacts significant fabric.*

## HISTORICAL ARCHAEOLOGY

11. **SECTION 60 APPLICATION**

    An application for archaeological excavations under section 60 of the Heritage Act 1977 must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

12. As part of the section 60 application:
    a. The applicant shall submit an Archaeological Research Design and Excavation Methodology prepared by a suitably qualified and experienced historical archaeologist to ensure that the salvage of any Orwell House remains for completeness of scientific knowledge .
    b. The applicant shall nominate an Excavation Director(s) suitable to satisfy the Excavation Director Criteria of the Heritage Council of NSW for the proposed activity and significance level. The nomination(s) shall be supported by a response to the Excavation Director Criteria 2019.
    c. Following the receipt of the Archaeological Research Design and Excavation Methodology as part of the section 60 application, the Heritage Council of NSW reserves the right to issue Archaeological Conditions as part of the section 60 approval to manage the archaeology. Matters such as (but not limited to) fieldwork methodology, artefact analysis, final reporting may be included as part of these archaeological conditions.

*Reason: The subject site contains historical archaeological relics, which are protected under the Heritage Act 1977 and must be managed appropriately.*

## UNEXPECTED HISTORICAL ARCHAEOLOGICAL RELICS

13. The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

*Reason: This is a standard condition to identify to the applicant how to proceed if historical archaeological deposits or relics are unexpectedly identified during works.*

## COMPLIANCE

14. If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

*Reason: To ensure that the proposed works are completed as approved.*

**SECTION 60 APPLICATION**

15. An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

*Reason: To meet legislative requirements.*

## Advice

Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

## Unexpected discoveries during works

If during works under this approval, you unexpectedly discover a relic or believe you may have discovered an historical archaeological 'relic', notification is required under s146 of the Heritage Act 1977. If you believe you have unexpectedly discovered an Aboriginal object, notification is required under s89A of the National Parks and Wildlife Act 1974.

In these scenarios work must cease in the affected area(s) and the following notifications are required (a relic - the Heritage Council of NSW and an Aboriginal object – Heritage NSW). Additional assessment and approval may be required under the relevant legislation prior to works continuing in the affected area(s) based on the nature of the discovery.

## Right of appeal

If you are dissatisfied with this determination, section 70A of the Act gives you the right of appeal to the Land and Environment Court.

If you have any questions about this correspondence, please Mariyam Nizam, Senior Assessments Officer at Heritage NSW on (02) 9873 8500 or heritagemailbox@environment.nsw.gov.au

Yours sincerely

*Rajeev Maini*
Rajeev Maini
Manager, Assessments Team 3
Heritage NSW
Department of Planning and Environment
As Delegate of the Heritage Council of NSW
16 October 2023

# Attachment E

## Heritage Committee Report

**HERITAGE COMMITTEE REPORT**

**Date:** **01 July 2022**
**Development Application:** **D/2021/893**
**Site:** **28-30 Orwell Street, Potts Point**
**Applicant:** **CE Minerva Pty Ltd (Central Element)**
**Committee Members:**
Scott Robertson, Robertson & Hindmarsh Pty Ltd, Architects
Otto Cserhalmi, OCP Architects
Nicholas Joannides, Partridge, Engineers

## Background

Section 3.9.4 of the Sydney DCP 2012 '*Development of sites of State heritage significance or containing more than one heritage item'* states:

(1) This provision applies to development that will introduce major changes to a heritage item identified in Schedule 5 of the Sydney LEP 2012 as being of State heritage significance or to a site containing more than one heritage item, if the development involves:

(a) demolition that will result in a reduction of the building envelope of the heritage item by more than 35%;

(b) an increase in the size of the building envelope of the heritage item by more than 20%; or

(c) building over more than 20% of a heritage item's building footprint within the airspace above the item, but not within the airspace next to the item.

(2) When considering an application for development to which this provision applies, the consent authority is to:

(a) appoint a committee that includes heritage professionals to examine and advise on the merits of the proposal;

(b) be satisfied that that committee has followed an appropriate public process for the purpose of that examination; and

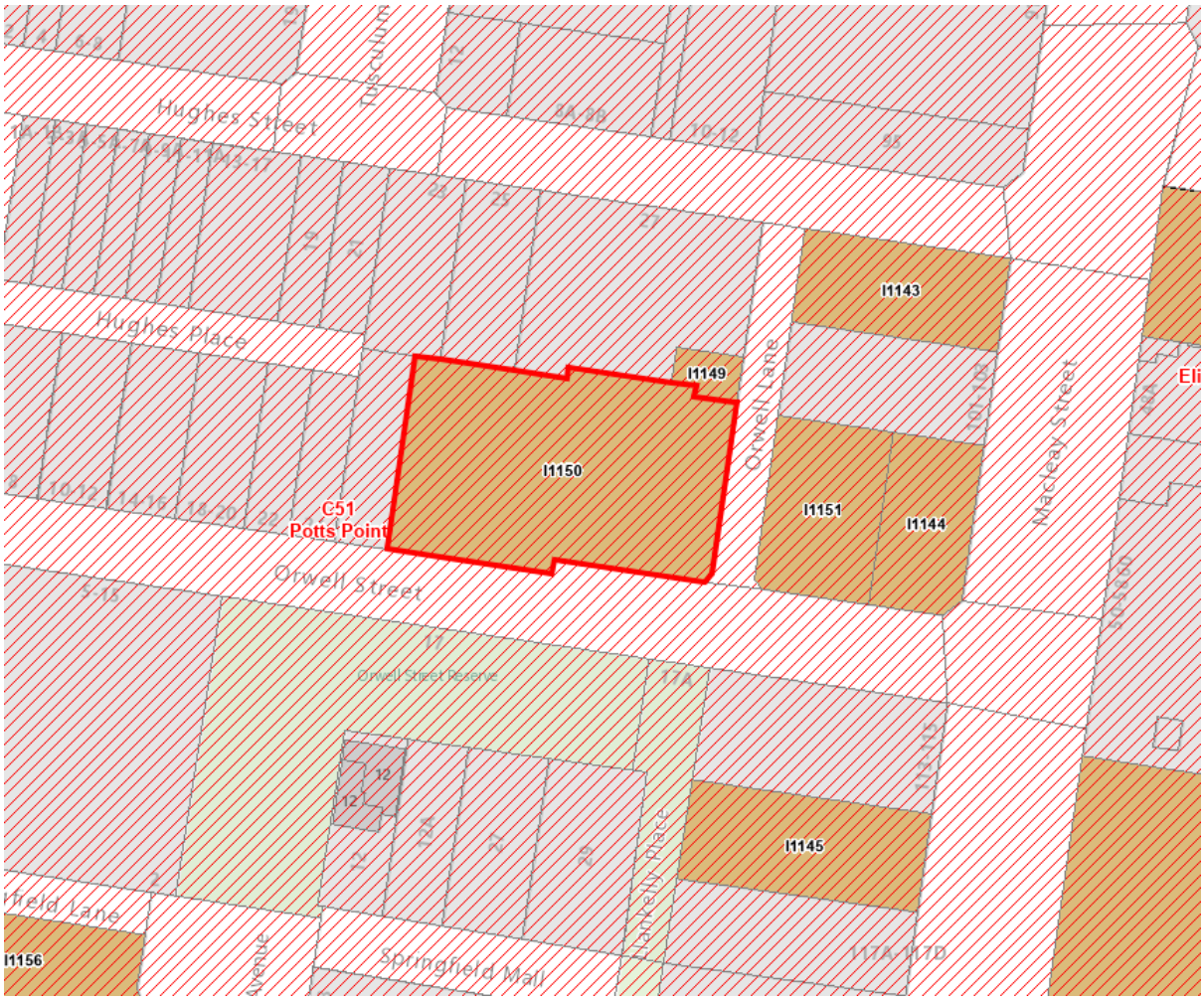
(c) consider the advice but is not bound by the advice of the committee.

## The proposal

On 5 August 2021, CE Minerva Pty Ltd lodged a development application for alterations and additions to the existing building, known as The Metro, and previously Minerva Theatre. The works include and new basement levels, rooftop additions and conversion of the existing fly tower, for the adaptive reuse of the building for the purposes of entertainment facilities, food & drink premises and hotel accommodation.

**The site**

The combined site area is 1,267 square metres and has a primary frontage to the north of Orwell Street and a secondary street frontage to the west of Orwell Lane. The site is included in the NSW State Heritage Register (SHR No. 02049) and as a local heritage listed in Schedule 5 of the Sydney Local Environmental Plan (SLEP 2012), being Minerva Theatre, former "The Metro" including interior (I1150).




*SLEP 2012 Heritage Map (Site in red)*

There are five heritage items in the immediate vicinity in the direct visual catchment of the site, being:

- I1149, Electrical Substation No.166, 1 Orwell Lane
- I1143, Flat building 'Byron Hall' including interior, 97-99 Macleay Street
- I1151, Commercial building "The Roosevelt", former 2KY Radio Station including interior, 32-34 Orwell Street
- I1144, Commercial building "Minerva Building" including interior, 105-111 Macleay Street
- I1145, Flat building "Cahors" including interior, 117 Macleay Street

The site is located within the Potts Point Heritage Conservation Area (CA51).

**The Committee's Recommendations**

## 1.0 Executive Summary

The heritage significance of the building resides in both its aesthetic significance for its exterior and for the original extant interior fabric and spaces and its historical and social significance as a theatre/cinema.

The current development proposal for the site, comprising a hotel and small function venues, forever sterilises the building from being used for its original significant use as a live performance theatre and cinema.

The Committee considers that the current development proposal is not the most suitable development for the State-listed Metro/Minerva Theatre and that a more suitable use is one that maintains the building as a public entertainment venue for live-performance shows and/or cinema (i.e. its original use).

Proposals to change the use of a State-listed item should be accompanied by a Conservation Management Plan (CMP) that thoroughly addresses the significance of the building, the fabric and the spaces within the building, before proposing the removal of significant fabric and the loss of significant spaces. Moreover, feasibility studies for the reuse of such important buildings should be detailed and comprehensive so that the assessment of the selected use can be rigorous.

The options for proposed uses, documentation and structural construction methodology, submitted for the current proposal has not been comprehensive enough to justify the proposal. To be supportable, appropriate building use(s), additional detailed architectural documentation; and detailed systematic constructions/demolition methodology - are crucial to ensure the least amount of irreversible intervention is sustained to the Subject State Listed Heritage Item. In the event that the current proposal proceeds, the above information together with the items listed in Section 4.0 and Section 5.0 of this report is necessary to be followed and provided to council, as part of the DA.

## 2.0 Description

The following description of the site and building is based on the description included in the SHR listing as well as the site inspection of the exterior and interior by the Committee on 7 June 2022.

### 2.1 Context:

The Metro Theatre is located on the north-west corner of Orwell Street and Orwell Lane, Potts Point. The Metro Theatre building occupies its entire site. The other parts of the original Minerva group, the Minerva/Roosevelt nightclub and the Minerva Building, occupy the sites between Orwell Lane and Macleay Street to the east. A three-storey interwar flat building is located to the west of the subject site on Orwell Street and Electrical Substation No. 166, constructed by 1925, is located to the north on Orwell Lane. "Gowrie Gate", designed by Dudley Ward (one of the architects involved in the design of the Minerva Theatre), is located on the corner of Orwell and Macleay Streets, diagonally opposite the subject building.

The subject site's primary frontage is to Orwell Street which is one of the network of smaller streets that lead off the main spinal thoroughfare of Macleay Street, Potts Point. Orwell Street is a narrow road connecting two of Potts Point's main streets, Victoria Street and Macleay Street, with the subject site located closer to the latter. The subject site is located opposite the open space of Springfield Gardens that

provides views of the Metro Theatre. Llankelly Place lies directly to the south of the Metro Theatre, adjacent to the west side of “Gowrie Gate”.

**2.2 Views:**

Important views to the subject site and its corner tower are available from the junction of Orwell Street and Macleay Street. Oblique views of the building are available along Orwell Street and Orwell Lane. Springfield Gardens provides a wider visual setting, affording excellent views and an appreciation of the building as a whole. Focused views of the building and its corner tower are also available from pedestrianised Llankelly Place. Views from the largely windowless building are limited and available primarily from the foyer, the windows (originally for retail tenancies) along Orwell Street and the non-original balcony off the upper level office spaces, overlooking Orwell Street and Orwell Lane.

**2.3 Building exterior:**

The Metro Theatre is a powerfully modelled, rendered brick building designed and executed in Interwar Functionalist style. In the publication 'A Spirit of Progress: Art Deco Architecture in Australia', Dr Roy Lumby notes that: 'Its exterior is one of the finest surviving in Australia, dominated by a tall expressionist tower on its corner, which effectively contrasts with the overlapping planes of the rest of the exterior, embellished with fine horizontal banding'.

The Metro Theatre's carefully designed three-dimensional modelling and its composition of asymmetrical vertical and horizontal elements, linear decoration and curved returns is characteristic of Crick and Furse's mature work of the late 1930s. The sophisticated, dynamic composition of geometric forms makes the subject building's exterior a fine example of the Interwar Functionalist style.

The southern and eastern facades are generally visible from the public domain. The various interior components of the building are clearly expressed in the exterior form. The building has four major components. At the western end of the south facade is the vertical stage and fly tower component, a four-storey mass with a pyramidal parapet surmounted by a smaller form set back from the main facade, emphasising its verticality through the treatment of windows and associated vertical detailing.

In the centre of the southern facade are the former retail tenancies and foyer component, reading as a 2-3 storey horizontal element with curved returns and stepping down to the west. The horizontality is emphasised by the general absence of windows above awning level, the distinctive sweeping design of the stepped, cascading and striated awning itself and the horizontal speed stripes recessed into the smooth render.

At the eastern end of this facade is the dramatic corner tower, composed of carefully designed vertical blades, juxtaposed with the deeply modelled horizontal, streamlined blades. This tower is a deliberate vertical, sculptural foil to the pronounced horizontality of the adjacent forms. The existing "Metro" signage, that is likely to date from 1952 when the name of the theatre was changed from “Minerva” to “Metro” by the building’s owners, MGM. Strongly influenced by Expressionism, the tower element, functioned as an architectural sculpture promoting the theatre and signalling the entrance.

Set behind this is the auditorium, set back from Orwell Street and aligned with Orwell Lane. Marked horizontal grooves inscribed in wall planes are juxtaposed with the verticality of the corner tower. The auditorium's conventionally pitched roof is

concealed, when seen from the street, by a stepped parapet to give the impression of a flat roof.

The foyer and gallery entrance is in excellent condition and is generally intact. The ground level Orwell Street shop fronts, entrance box offices and windows have been modified as have the ground level vitrines and entrances on Orwell Lane. However, the entrance from, the Monel metal-framed entrance doors, awning and the legibility of the overall masonry form of the building remains highly intact.

### 2.4 Building interior:

#### 2.4.1 Foyer and Gallery

The theatre is entered via the entrance porch at the eastern end of the building, at the corner of Orwell Street and Orwell Lane. Box offices flanked the entry and their curved form still remains. The extent of any surviving box office fabric is not known but the original ticket office grilles and curved glass above have been replaced with curved glass windows.

The former theatre buffet was located behind the former box office/ticket booth (on the west side of the entry) and overlooked Orwell Street. To the west of that, was a former shop. The interior of the former box office, theatre buffet and shop have been modified.

The original front doors to the Foyer remain, as does the original door furniture on most of the doors (pull handles, kick plates, etc).

The double-height entry foyer is designed and constructed in the Streamline Moderne style. The entrance space features many original features including the decorative vaulted, fluted ceiling with concealed lighting, the wave-like steel staircase balustrading cascading down the Grand Staircase, illuminated etched glass lighting features on either side of the staircase landing and a recessed and stepped alcove on the landing that frames a semi-circular curved plinth, originally intended to display a floral arrangement. The intercolumnar openings on the west side upper level of the foyer (the Foyer Gallery) are mirrored in rectangular mirrors in recesses on the east side, giving the impression that the upper-level wraps around both sides of the entry foyer and grand staircase. The use of mirrors throughout the interior is evident in expanding the sense of space on a particularly cramped site.

Doors lead off the western side of the ground floor into what were once the stalls. Above the front doors on the south wall of the foyer is an original arched recess now the location of a mural featuring a flying pig (apparently a reference to Kennedy Miller's film, “Babe”).

The Foyer Gallery, separated from the foyer space by rectangular columns, also features a decorative vaulted ceiling with concealed lighting. The gallery floor cantilevers into the main foyer with a balustrade that echoes the design of the steel staircase balustrade. Opposite this, glass doors open into a room used by Kennedy Miller as a boardroom with a parquetry floor finish over a concrete floor structure. A glazed wall overlooks the auditorium.

On the south side of the auditorium part of the building, entered off the Foyer Gallery, is located the stairwell that used to provide access from the Foyer Gallery to the Dress Circle, its contents largely intact including the original stairs with decorative balustrade, decorative cornicework and curved ceilings and walls, together with the space-distorting wall mirrors.

On the north side of the building the stair from the Foyer Gallery to the former Dress Circle also retains the original curved ceiling with decorative cornicework as well as the wall finishes and space distorting mirrors.

Off the southern stairwell at from the Foyer Gallery to the former Dress Circle are the original Dress Circle Male and Female toilets.

The Male toilets have a gold/cream and black colour scheme and the Female toilets have a green and black scheme. Both toilet areas retain the original terrazzo toilet partitions and the Male toilets retain their original urinals. The Female toilets retain the original wall and floor tiles and the Male toilets retain the original wall tiles, but its floor tiles have been replaced with modern black tiles. Both toilets are entered from the public spaces through Lounge areas. The Male toilet Lounge retains its small timber shelf and mirror and the Female toilet Lounge retains its original two timber vanity tables and mirrors. At the northern end of the Female Lounge a high-level mirror again extends the perceived space of the room. Both toilet areas retain their etched decorative glass porthole windows in the original timber doors and both doors retain the original door furniture (handles, back plates and kick plates. The original basins have been replaced in both sets of toilets with modern vanity units and basins.

The Ground Floor Female bathroom has been heavily modified and the Basement level Male toilets have been destroyed, with the exception of the original urinals, floor tiles and some wall tiles. The toilet suites and terrazzo partitions are no longer extant in the Male toilets in the Basement.

Above the entry foyer on the eastern side of the building are two levels of small offices, the uppermost having once been the projection room. These spaces are functional in finish.

Over the south-west corner of the auditorium are two small utilitarian film-viewing rooms, off which access into the auditorium timber framed roof space is possible.

A number of original interior doors remain with their original timber finish, door furniture, and etched glass porthole windows.

### 2.4.2 Auditorium

As stated by architect and academic, Ross Thorne, in “Cinemas of Australia via USA”, the auditorium is likely to have been influenced by German Expressionist architecture and is one of the most striking theatre interiors ever realised in New South Wales. The space and surviving original wall and ceiling material are in good condition, although stains from water ingress, as well as peeling paint, were observed. The auditorium's dramatically backlit fluted proscenium ensemble splays and the curvaceously coved, and streamlined plaster ceiling, highlighted by concealed lighting, still make a powerful visual impression. Backlit white lighting highlights the dramatic, sweeping concave planes of the plasterwork.

The interior of the auditorium was substantially modified in the late 1970s so the space could function as a food market. The original sloping timber floor structures of the stalls and dress circle have been replaced by level concrete floors leading, respectively, off the foyer and the gallery, with a further split-level floor inserted at the foyer ceiling level. The concrete slabs and mezzanines inserted for this use were repurposed a year later when the food market use failed and the building was turned into an office building. However, the original plaster front panel and wall of the original dress circle remains intact, together with one of the curved side balconies on each side.

The new concrete floor at gallery level extends well into the auditorium. The new single-storey space below it, featuring circular columns and concealed overhead lighting, has been recently used as office space with storage and utility areas opening off it to the east and north. Opening to the south are several spaces, once retail tenancies, and until recently used as offices, looking onto Orwell Street. Both the gallery-level boardroom and the upper-circle-level office space look into the auditorium through steel framed glazed walls which split the auditorium laterally in two.

The new office area at upper-circle level is on two levels, from the upper of which a new glazed sliding door opens onto a balcony overlooking Orwell Street.

### 2.4.3 Stage and Fly Tower

At the western end of the building the original stage, orchestra pit and stairs have been replaced by a raised concrete slab sheeted in parquetry flooring. Physically removing the lowest portion of the original fluted proscenium arch and extending further into the auditorium. Stairs constructed in the Kennedy Miller phase provide access at the stage front and new stairs at the side walls.

Above the new stage a curved concrete mezzanine floor has been constructed with a glazed partition above it from which the reduced fly tower space, now housing workstations, looks into the auditorium. The high-level fly tower timber supporting structure appears to have been retained but there is no obvious evidence of the original theatrical rigging system, including the system of rope lines, blocks (pulleys), counterweights and related devices has been retained.

Below the stage lies a small carpark entered off Orwell Street. From here the basement below the auditorium floor can be accessed. An archaeological investigation has been undertaken in this area at the request of Heritage NSW.

The stage and fly tower areas are in excellent condition although they have been truncated in height by the raised floor level over the carpark.

### 2.4.4 Chronology

| | |
|---|---|
| 1939: May: | Minerva Theatre opened as a theatre. |
| 1939: August: | Movies shown for one week.<br>Note the building was designed from the outset to be a theatre for live performances as well as a cinema for films. |
| 1948: | Building was sold to Metro-Goldwyn Mayer but the lessee, Whitehall, continued presenting plays. |
| 1950: April: | MGM began screening films full-time. |
| 1952: August: | “Minerva” name replaced with “Metro.” |
| 1953: | Alterations to shop front. |
| 1969-1971: | “Hair” rock musical presented by Harry M. Miller. |
| 1974: | Theatre reverted to use as a cinema. |
| 1976: | Live performance stage shows returned. |
| 1979: | Alterations being made for use as a food fair/market. |
| 1981: | Metro Food Fair opened with 20 fresh food shops, 8 fast-food bars and a restaurant but failed. |
| 1982: | Edgetex Holdings stripped out shop fittings and fixtures and adapted interior as its offices. The work included alterations to principal facade to create the Orwell Street balcony. |
| 1983-2018: | The Kennedy Miller organisation took over and used it as a studio for television and as offices for the film production company. |

2020: The Metro Theatre (formerly Minerva Theatre) listed on the NSW State Heritage Register.
2021: Create NSW commissions the Minerva Theatre Feasibility Study (Final version completed February) and Minerva Theatre Strategic Review (Final version completed September).

| | | |
|---|---|---|
| The building was used as a theatre/cinema: | 1939-1978: | 39 years |
| The building was altered and used as a food court: | 1979-1981: | 3 years |
| The building was used as offices: | 1982-2017 | 35 years |
| The building has been vacant: | 2018-2022 | 5 years |

## 3.0 Significance

### 3.1 Statement of Significance

The following is the Statement of Significance contained within the SHR listing:

> *The Metro Theatre (formerly the Minerva) is of state heritage significance as an outstanding example of modern architecture in NSW and a now rare example of an Interwar Functionalist style theatre with Streamline Moderne features. The rarity is also vested in the work of prominent architect C. Bruce Dellit and the culmination of achievement of theatre architects Crick and Furse, whose prolific body of work has been reduced to very few examples across the state. The Metro Theatre is considered culturally iconic by the community, forming part of the history of theatre and cinema in NSW, reflecting the boom in cinema/theatre development in the 1930s and forming a cultural hub within the arts and film until the early 2000s.*
>
> *The Metro Theatre is of state historical and aesthetic significance as one of the finest surviving Functionalist exteriors in Australia, dominated by a bold, expressionist tower, contrasting with curved, horizontal motifs. The external volume of the fly tower highlights the design and use of the Minerva, and later Metro Theatre, for the production of live theatre as well as moving pictures.*
>
> *The interior, particularly the auditorium, was acknowledged as one of the finest and most striking of any theatre to have been constructed in Australia during the 1930s. The auditorium's dramatically backlit proscenium splays and the coved, streamlined plaster ceiling invoked lavish praise from theatre and cinema patrons, and continue to make a powerful visual impression. Although partly modified, the interior still demonstrates its sophisticated, original architectural character.*
>
> *The place is of significance to NSW through its associations with prominent architects of the period including C. (Charles) Bruce Dellit, concept designer of the Minerva Theatre and architects Guy Crick and Bruce Furse, who developed the theatre's concept into its final form. Crick & Furse have been acknowledged as the foremost designers of cinemas in NSW during the second half of the 1930s and Australia leaders in the streamline cinema movement. They designed or renovated hundreds of picture theatres across Australia during their peak, having a huge impact on the architectural form and presentation of theatres, recognisable across the country. Its interior is associated with significant early Modernist architect Dudley Ward.*
>
> *The place is also state significant via association with people who have made notable contributions to the arts and cultural history of NSW. Theatrical entrepreneur and property developer David Martin, the original owner, was a major distributor of Australian films. His company brought many world class*

*performers and shows to Sydney. Actress and director Kathleen Robinson, whose Whitehall Productions leased the theatre from 1941 until 1950, produced a wide range of plays for Sydney audiences and made a substantial contribution to Sydney's theatrical culture during this period. Leading film producers Byron Kennedy and Dr George Miller, who worked from the site in the 1980s, made an important contribution to Australia's motion picture industry and produced several movies of international standing, notably Mad Max (1979), Babe (1995) and Happy Feet (2006).*

In summary, the building is of significance for its architecture (both exterior and interior) and architects as well as the use of the building as a theatre and cinema and its associated significance for the plays and films that were presented at the theatre/cinema. It is also significant for its association with the Australian film production company Kennedy Miller.

### 3.2 Levels of Significance

The Conservation Management Plan (CMP) prepared by TKD Architects for Abacus Funds Management Ltd (2020), that was included as part of the DA documentation for this current proposal, and the Heritage Assessment prepared by Urbis for the City of Sydney (2018) both tabulate levels of significance for various building components and spaces. These levels are compared in the Statement of Heritage Impact prepared by TZG Architects (2021).

The apparent inconsistencies between the levels of significance within the CMP and between the various reports has not been reconciled. Though it is acknowledged that the SoHI by TZG, accepts the higher Significance Grading guidelines, for any discrepancies, this has not been formally addressed in a revised CMP. For example, the exterior form, massing and materials of the exterior is rated as exceptional (except for intrusive later elements). However, the original, intact and important awning along the Orwell Street façade is rated as High. Likewise, the Grand Staircase and Foyers are rated as High when they form an integral part of the building's original design and fabric and is an essential part of the significance of the place. The Dress Circle Toilets are rated as High, and yet the Female toilets in particular retain all their significant fabric and detailing. One has to question, why is the original Dress Circle balustrade front rated as Moderate when it is, along with the Auditorium proscenium, walls and ceiling, one of the few original parts of the Auditorium that remain?

## 4.0 Consideration of Heritage Matters for this Development Application

### 4.1 Referenced documents

The documents used as a basis for this assessment of impact are:

- **D/2021/893** original development application drawings dated 23/7/2021 and supporting reports,
- Final Draft Architectural Drawings dated 10/6/2022, for partial removal of basement under Grand Staircase to Main Foyer. Note that the Final Draft Architectural Drawings comprised the following plans: Basement 2 Plan, Basement 1 Plan, and Ground Floor Plan. There were no plans of the upper levels and no elevations, sections or demolition drawings.
- Revised Statement of Heritage Impact (Rev. 2).; and
- Draft amended Architectural drawings dated 06/05/2022, for removal of two basements.

The complete list of documents examined by the Committee in preparing this report is contained within Appendix A to this report.

### 4.2 Relevant Council planning controls

The following relevant planning controls have been considered in the preparation of this report:

#### 4.2.1 Sydney Local Environmental Plan 2012:

**Clause 4.3 Height of Buildings**:

Subclause (1)(b):

> *to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas.*

Whilst this clause is intended to be applied to new development adjacent to heritage items and adjacent to buildings in conservation areas, the principle is applicable to alterations to the height of heritage items themselves. The breach of numerical standards in a development involving the increase in height to a heritage item should only be considered where the increase is not detrimental to the amenity of neighbouring properties and where the increase in height supports the ongoing utilisation of the building for a use that maintains the significance of the building.

It is the Committee's opinion that the increase in height of the building to accommodate hotel rooms supports a use that is not compatible with the long-term use of the building in a manner that maintains its cultural significance. If approved, the boutique hotel use will sterilise the use of the building for its original historically and socially significant use as a theatre/cinema. In addition, the construction of hotel rooms above the Auditorium (both its ceiling fabric and the space under the ceiling have been rated as Exceptional) jeopardises the integrity of the ceiling through accidental damage from falling objects and rain. Moreover, the construction of the rooms above the Auditorium also requires the penetration of the ceiling in multiple locations to support the construction of the floors above.

Clause 5.10 Heritage Conservation:
Subclauses:
(1) Objectives,
(4) Effect of proposed development on heritage significance,
(5) Heritage Assessment,
(6) Heritage Conservation Management Plans,
(7) Archaeological sites,
(8) Aboriginal places of heritage significance, &
(10) Conservation incentives.

These Heritage Conservation clauses are discussed later in this report.

Clause 6.21 Design Excellence:
Subclause (4)(d)(iii): Any heritage issues and streetscape constraints.

The current proposed development is based on a change of use from the historically and socially significant use as a theatre to that of a boutique hotel and a small function venue. Moreover, the top hotel floors will be visible from the south-east.

4.2.2 Sydney Development Control Plan 2012:
Subclauses:
2.4.7 Locality Statements – Kings Cross
3.9.1 Heritage Impact Statements,
3.9.2 Conservation Management Plans,
3.9.4 Development sites of State heritage significance …,

3.9.5 Heritage items,
3.9.6 Heritage conservation areas,
3.9.7 Contributory buildings
3.9.10 Building materials for heritage items …,
3.9.13 Excavation in the vicinity of heritage items …,
3.9.14 Heritage inventory assessment reports
4.2 Residential Flat, Non-residential and Mixed-Use Developments
The above matters are discussed elsewhere in this report.

**4.3 Architecture (fabric & spaces)**
**4.3.1 Documentation**
**4.3.1.1 Conservation Management Plan**
A Conservation Management Plan (CMP) was prepared by Tanner Kibble Denton Architects, June 2020.TKD's CMP was prepared as a guide for the conservation, management and interpretation of the heritage significance of the place. TKD's CMP is not specific to the current Development Application that is currently under assessment with The City of Sydney. TKD's CMP was produced by TKD for the previous owner and for a different proposal. Moreover, the TKD CMP concluded that the building was not of State significance but was of Local significance.

Following rejection of the TKD proposal, the State Heritage Register listing of the building, and the sale of the property to the current owner, a new CMP should have been prepared on the basis of the building's recognised State significance.

A Heritage Impact Statement was prepared by Tonkin Zulaikha Greer, July 2021, for the current applicant, Central Element under its Development Application, **D/2021/893.**

The Australia ICOMOS Burra Charter (2013) states in Article 26.2:

> *Written statements of cultural significance and policy for the place should be prepared, justified and accompanied by supporting evidence. The statements of significance and policy should be incorporated into a **management plan** for the place.*

The meaning of the Burra Charter Article is that the significance of a place must be determined prior to any work on the place. 'Work' includes the design of alterations and/or additions to the place as that design could detrimentally impact the significance of the place in the absence of a determination of significance and a thorough analysis of the fabric that contributes to or detracts from that significance. Heritage NSW would generally require a Conservation Management Plan to be prepared for a State Listed Item. The heritage documentation submitted in support of this DA, includes the Heritage Impact Statement, but not a revised Conservation Management Plan, that assesses the heritage significance of the building on site in relation to the proposed scope of works in **D/2021/893.**

The Heritage Impact Statement (HIS) submitted with the current DA goes some of the way towards the requirements of a CMP but should have reconciled the discrepancies noted in Section 3.2 of this report and included a detailed assessment of significance and condition of the spaces, fabric and elements.

**4.3.1.2 Measured drawings**
The DA documentation did not include any measured drawings of the existing building and this is considered to be a serious omission. With a building of State significance, especially, it is important to be able to assess the impact on the existing fabric (original or otherwise) and spaces of the building.

To assist with an accurate assessment of the impacts from the present DA proposal a detailed measured drawing referenced from a current building survey would permit a succinct and an easier understanding of the proposal. This could be included as part of the new Conservation Management Plan that provides a component for fabric analysis of the condition of fabric, as well as the significance of fabric. There is currently no detailed, room-by-room scheduling of the building in terms of finishes, intactness and condition. As such, it is difficult to adequately establish a framework for the protection of this building and its significant elements.

The diagrams of significance included in the TKD CMP have been replicated in the TZG HIS. Without measured drawings, the accuracy of these diagrams cannot be verified. However, the diagrams of Phases of Building Development on pages 50-53 of the TZG HIS are a depiction of original fabric which could have formed the basis of a more detailed assessment.

#### 4.3.1.3 Room and salvage schedules

There is also no detailed, room-by-room scheduling of the building in terms of finishes, intactness and condition. This is especially important where the building is of State, or higher, significance. Without a detailed schedule of fabric and spaces, the accuracy of the assessed levels of significance cannot be verified.

A Salvage and Re-use Schedule should be provided and assessed by Heritage NSW / NSW Heritage Council representative, prior to removal of any significant fabric assessed in the new CMP.

#### 4.3.1.4 Photographic recording

A Photographic Archival Recording of the State-listed subject site should be organised as soon as possible and before any removal of fabric, elements or demolition takes place.

#### 4.3.1.5 Maintenance schedule and protection

There needs to be in place protective measures to repair any water or wind ingress or security issues that may accelerate the deterioration of the subject site, while it is unattended during the assessment and pre-construction period. As pointed out by the applicant at the site visit of 7 June 2022, there is recent evidence of leak marks to the Auditorium Ceiling that is considered “high” Significance in the TKD CMP. The future CMP for “The Metro” is to allow for a maintenance schedule. This is the most cost-effective way to maintain the value of an asset. The maintenance schedule should include repair works for:

- Corrective Maintenance – that may accelerate the building’s deterioration,
- Planned Maintenance – routine inspections for short/medium and long term that are critical for effective preservation of the heritage item; and
- Emergency Corrective Maintenance – for unforeseeable damage that may occur due to weather, vandalism or other incidents.

### 4.3.2 Impact on the building fabric and spaces

Both the original and the draft amended architectural plans indicate that, in order to create new floors below grade, much of the existing Ground Floor will be demolished. In the original scheme, this demolition included the Grand Staircase but in the draft amended scheme the staircase remains.

In both the original and amended schemes, the floors to the Auditorium and Fly Tower will be demolished. The upper levels of the north-west corner of the Fly Tower is also proposed to be demolished. The area of the building north of the Auditorium

(including the side rooms, staircases and north wall of the building) will be demolished. The roof and its timber trusses (that also support the Auditorium ceiling) will be demolished/truncated.

The significant areas to be retained will be the south, east and west walls of the building, the rooms to the south of the Auditorium, the walls and ceiling of the Auditorium, the east and south walls and ceiling of the Foyer, the ceiling and floor of the upper level of the Foyer, and the original Dress Circle front. However, it is not clear how some of these features are to be retained in their original condition. For example, in the draft amended scheme that retains the Grand Staircase, there is no indication how the floor of the Upper Foyer and its supporting columns at Ground Floor level are to be retained during the demolition and excavation under that portion of the building.

In addition, the entry and bathroom levels of the hotel rooms at the rear of the Auditorium (ie above the Foyer) will be contained within the original Auditorium space itself, thus denying a full appreciation of the original Auditorium ceiling from one end to the other.

### 4.4 Structural impact

The Metro Theatre building comprises loadbearing brickwork walls to the facades and interior that support the main roof, including the timber trusses over the Auditorium that in turn support the auditorium ceiling at curved streamlined plasterwork.

There have been new concrete floor slabs inserted into the Auditorium and the Stage Fly tower.

The proposed works in the amended draft scheme include:

1) Two new basement levels, excavated below the existing ground level, with the Foyer Grand Staircase removed for access (now proposed for retention in the draft amended scheme).
2) Roof-top additions that necessitate removal of the timber roof trusses and roof over the Auditorium, and
3) Internal wall removals.

The basement excavations that are likely to be into solid sandstone, extend to immediately alongside the existing façade brick walls and incorporate substantial demolition for access. In order to maintain the integrity and stability of the existing building elements that are to be retained a Demolition Methodology Report is essential.

The Demolition Methodology Report should include details of: -

1. Temporary support measures for the Auditorium ceiling during demolition of the roof and roof trusses, including the measures of protection from the weather,
2. Methods of excavations in rock to limit ground vibrations that may affect the “sensitive” structure of the Building as well as the adjoining heritage buildings in the local vicinity.
3. If the Grand Staircase is dismantled, a demolition and construction methodology report to be provided, detailing the protection and reconstruction. Alternately, if the Grand Staircase is to be retained, provide detailed temporary support measures and the step by step process for maintaining its protection.

4. The Upper Foyer structure is to be retained, but all supports beneath are to be demolished and removed. Likewise, provide detailed temporary support measures and the step by step process for maintaining its protection.

Note: Monitoring during the demolition and excavation should include:

a) Vibration Monitoring, and
b) Survey Mark Monitoring.

1. Vibration Monitoring should be continuous with vibration sensors set to a limit of ground movements at Peak Particle Velocities (PPV) of 3.0mm/sec for sensitive structures, with visual and audible alarms alerting to cease excavation if exceeded.

2. Survey Mark Monitoring should be carried out along the full extent of the Metro building and excavations every 48 hours during excavations. The survey data is to identify any lateral or vertical movements to the building during excavation.

The Demolition Methodology Report should be prepared by a suitably qualified structural engineer with appropriate experience in retaining heritage buildings and provided to the Heritage Architect for review.

Prior to the commencement of demolition, excavation or any construction a Structural Engineer with heritage experience is to provide Dilapidation Surveys with photography of archival quality; for both the Subject Site and all neighbours within two building sites of the Subject Site.

### 4.5 Impact caused by the change of use

The change of use of a place has an impact on the physical fabric of the building as well as the significance of the place associated with its original or major use. The change of use is considered to be critical to the maintenance, or otherwise, of significance and is the subject of a number of important publications that inform heritage practice:

- NSW Heritage Office publication *Statements of Heritage Impact*,
- *Australia ICOMOS Burra Charter (2013),* Article 15 (Change)
- Sydney Development Control Plan 2012 Clause 3.9.2 (1)(a).

As with demolition, the NSW Heritage Office publication *Statements of Heritage Impact* provides guidelines and a series of questions for consideration regarding change of use:

***Change of Use***

- *Has the advice of a heritage consultant or structural engineer been sought? Has the consultant's advice been implemented? If not, why not?*
- *Does the existing use contribute to the significance of the heritage item?*
- *Why does the use need to be changed?*
- *What changes to the fabric are required as a result of the change of use?*
- *What changes to the site are required as a result of the change of use?*

Change of use is also one of the matters for consideration in accordance with the Sydney Development Control Plan 2012 Clause 3.9.2 (1)(a), which requires a Conservation Management Plan to be prepared where a change of use is proposed. Such a CMP is to "address appropriate uses of the heritage item" (Sydney DCP 2012

Clause 3.9.2 (2)(e)(ii)). The current proposal has not thoroughly examined an important appropriate use; the re-use of the building as a live-performance theatre, despite the government-funded 2021 studies into the physical and financial viability of such a use.

The need to explore a range of options when planning work to a heritage place is also outlined in the *Burra Charter.*

Article 15 (Change) States that:

> *15.1 Change may be necessary to retain cultural significance but is undesirable where it reduces cultural significance. The amount of change to a place and its use should be guided by the cultural significance of the place and its appropriate interpretation.*
>
> *15.2 Changes which reduce cultural significance should be reversible and be reversed when circumstances permit.*
>
> *15.3 Demolition of significant fabric of a place is generally not acceptable. However, in some cases minor demolition may be appropriate as part of conservation. Removed significant fabric should be reinstated when circumstances permit.*
>
> *15.4 The contributions of all aspects of cultural significance of a place should be respected. If a place includes fabric, uses, associations or meanings of different periods, or different aspects of cultural significance, emphasising or interpreting one period or aspect at the expense of another can only be justified when what is left out, removed or diminished is of slight cultural significance and that which is emphasised or interpreted is of much greater cultural significance.*

Explanatory Note:

> *When change is being considered, including for a temporary use, a range of options should be explored to seek the option which minimises any reduction to its cultural significance.*
>
> *It may be appropriate to change a place where this reflects a change in cultural meanings or practices at the place, but the significance of the place should always be respected.*
>
> *Reversible changes should be considered temporary. Non-reversible change should only be used as a last resort and should not prevent future conservation action.*

In terms of heritage significance, insufficient justification is provided in support of:

- Removal of the Grand Staircase and main Foyer on Ground Level.
- Removal of more than 75% of the north wall to the Auditorium, including the removal of the original north stair from the Dress Circle down to the main Foyer.
- Removal of upper levels of the north-west corner of the Fly Tower; and
- Removal of roof to Auditorium.

The proposed change of use of the building from an office building can potentially be supported, in terms of heritage significance, as the theatre/cinema use of the building was the longest and most publicly accessible use of the building. However, the

change of use to entertainment facilities, food & drink premises and hotel accommodation cannot be supported until further research is provided that thoroughly investigates additional alternatives that analyse and revisit less intrusive interventions to the current building fabric.

Two options for re-use of the building are included in the Applicant's Statement of Heritage Impact (June 2022). Option 1 was a "Performance Hospitality Venue" retaining the auditorium and adding hotel rooms and a basement venue space. The scheme submitted for the current DA is a variation of this option. Option 2 was for a "Performance Hospitality Venue and Hotel + 300 seat theatre." This second option was stated to not be financially viable and was not pursued.

As part of the DA documentation the Applicant submitted a report by Arup, dated 17 May 2021, that assessed the Hawkridge *Minerva Theatre Feasibility Study*, dated 5 February 2021 that had included 6 seating options for the re-use of the theatre as a 1,000-seat venue for live performances. The Hawkridge Feasibility Study, in fact, constitutes a third option for the building's re-use. The Arup report concluded that it was not technically feasible to revert the Minerva Theatre into a 1,000-seat venue in accordance with the Hawkridge Feasibility Study. The second Hawkridge report, *Minerva Theatre Strategic Review*, dated 14 September 2021, went into more detail than the February Feasibility Study and concluded that a 1,000-seat theatre is physically possible and financially viable. There has been no assessment by the Applicant of this later Strategic Study and hence no in-depth exploration of this third option.

Given the heritage significance of the building and the extent of change involved in the proposed design, the proposal is not likely to be the best option for the redevelopment of the site. Nevertheless, in the absence of a thorough options analysis, insufficient justification is provided for the extent of changes proposed to the site.

**5.0 Conclusion**

NSW Heritage Management principles and the Burra Charter require that adaptation of a heritage place be informed by, and tested against, a thorough understanding of the significance of the place. A vigorous analysis of options to determine best outcomes for its continuing use should be undertaken, with the least amount of change to its original fabric and use being the preferred outcome. Any proposal for alterations or additions to the theatre should demonstrate that there will not be an unacceptable level of heritage impact on the building as a whole; and the proposed work should be reversible in future.

The current proposal is considered to alter the building from its original use to an extent that is deemed unacceptable. The proposal neglects to conserve the heritage significance of the place in terms of its aesthetic significance, as well as its significance in terms of function. Considerable fabric of High and Exceptional significance is removed under the proposal. The Exceptionally significant Auditorium ceiling, in particular is under threat. Moreover, the use of the building as a hotel will forever prevent the return of the original use of the building, due to the loss of the original functional spaces that enabled the theatre to operate.

Hence, the Committee has concluded that the current proposal as submitted (D/2021/1893) and as revised (drawings B2, B1 and Ground plan, dated 10 June 2022 and revised SHI dated June 2022 Rev 2), cannot be supported from a heritage perspective.

## 6.0 Recommendations

The recommended management included in the State heritage listing inventory for the site lists:

- Carry out interpretation, promotion and/or education
- Prepare a maintenance schedule or guidelines
- Produce a Conservation Management Plan (CMP)

These recommended management tasks have not been undertaken.

After considering the documentation and impacts of the current proposals, the Committee recommends:

1. The building should be used for a function that reinforces the significance of the building and that does not require non-reversible alterations to the building fabric and spaces to accommodate the proposed new function. The original and revised proposals submitted for this application, fall short of adequately fulfilling this requirement.
2. A Conservation Management Plan (CMP) should be prepared for the site as required for State-listed items. The CMP submitted with the DA was prepared before the State-listing of the place and was prepared for a different proposal. The new CMP is to be submitted to the City Council for assessment and acceptance.
3. A conservation repairs list should be prepared and form part of the documentation.
4. Archival recording through drawings and photography should be carried out.
5. Prepare a detailed document that thoroughly examines the alternatives for re-use of the building that maximise the retention of fabric and that maintain the significance of the building.
6. Provide a costed maintenance strategy document that projects maintenance requirements 5, 10, 15, and 20 years into the future. This document is to be prepared by a suitably qualified heritage specialist with experience in restoration and conservation works, such as a Heritage Architect, Quantity Surveyor and Structural Engineer with experience in heritage restorations and costings.
7. Continue to maintain the building and repair the building to prevent the current ingress of water that is damaging significant fabric.
8. Structural Engineer with heritage experience to provide Dilapidation Surveys with photography of archival quality; for both the Subject Site and all neighbours within two building sites of the Subject Site.
9. Submit a Construction Methodology Report that includes methodology for both demolition and construction for the Subject Site. Report is to provide evidence that satisfactorily instructs how to support and maintain retained structure in a detailed and systematic form.
10. During the demolition and construction phases, the interior of the Subject Site is to be monitored by both vibration and survey mark monitoring; and all neighbours within two building sites of the Subject Site.

The undersigned declare, to the best of their knowledge that they have no interest, pecuniary or otherwise, in this development application or persons associated with it and have provided an impartial assessment.

| Committee member | Signature | Date |
|---|---|---|
| Scott Robertson, Robertson & Hindmarsh Pty Ltd, Architects |  | 23 Jun, 2022 |
| Otto Cserhalmi, OCP Architects |  | 23 Jun, 2022 |
| Nicholas Joannides, Partridge, Engineers |  | 23 Jun, 2022 |

**APPENDIX A - Referenced documents**

**Applicant's documents:**

- **D/2021/893** full set of plans dated 23/7/2021,
- Minerva Final Draft Plans dated 10/6/2022,
- The Minerva Statement of Heritage Impact prepared by Tonkin Zulaikha Greer Heritage, dated 27 July 2021 & Revision 2 Draft Issue for Amended DA Submission 10 June 2022,
- Conservation Management Plan prepared by TKD dated June 2020,
- Accessibility Review Report by ABE Consulting, dated 28 July 2021,
- Additional Structural drawings,
- Assessment of Horse-Hair Plasterboard prepared by EIAustralia, dated 23 November 2020,
- Auditorium Methodology Appendix A,
- Auditorium methodology Review,
- BCA Assessment Report prepared by Concise Certification, Revision 02, dated 14 May 2022.
- Fire Engineering Report by Innova Fire Safety Specialists dated 16 May 2022,
- Geotechnical Investigation Report prepared by EIAustralia, dated 16 July 2021,
- Heritage Engineering Methodology Peer Review Report prepared by TTW dated 29 July 2021,
- Heritage Interpretation Strategy prepared by Tonkin Zulaikha Greer Heritage, dated 26 July 2021,
- Metro Minerva Feasibility Study,
- Statement of Environmental Effects prepared by planning lab, dated 29 July 2021.
- Structural Engineering Report prepared by BG&E Pty Ltd, dated 15 July 2021.

**Documents supplied by Sydney City Council:**

- *Minerva Theatre Feasibility Study* prepared by Hawkridge Entertainment Services for Create NSW dated 5 February 2021,
- *Minerva Theatre Strategic Review* prepared by Hawkridge Entertainment Services for Create NSW dated 14 September 2021,
- *Heritage Assessment, The Metro Theatre, Potts Point*, prepared by Urbis for City of Sydney dated 9 August 2018.

# Attachment F

## Plan of Management

Central Element

# Operational and Security Plan of Management

## The Minerva

## 28-30 Orwell Street, Potts Point

September 2023



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Document status

| Revision | Date | Name | Signature |
|---|---|---|---|
| 1 | 23/7/2021 | Daniel Barber, Planning Manager<br>B.Plan (Hons), M.ProDev, CPP MPIA | |
| 2 | 2/11/2021 | Daniel Barber, Planning Manager<br>B.Plan (Hons), M.ProDev, CPP MPIA | |
| 3 | 7/11/2022 | Daniel Barber, Planning Manager<br>B.Plan (Hons), M.ProDev, CPP MPIA | |
| 4 | 27/02/2023 | Daniel Barber, Planning Manager<br>B.Plan (Hons), M.ProDev, CPP MPIA | |
| 5 | 14/6/2023 | Daniel Barber, Planning Manager<br>B.Plan (Hons), M.ProDev, CPP MPIA | |
| 6 | 15/08/2023 | Daniel Barber, Planning Manager<br>B.Plan (Hons), M.ProDev, CPP MPIA | |
| 7 | 06/09/2023 | Daniel Barber, Planning Manager<br>B.Plan (Hons), M.ProDev, CPP MPIA | |

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# 1. Introduction

## 1.1 Purpose

This Operational & Security Management Plan (plan) has been prepared for CE Minerva Pty Ltd in support of the future operations of the proposed future mixed-use hotel development at the site 28-30 Orwell Street, Potts Point.

The Plans includes information about the operational and contextual aspects of a premises, including locality description, security numbers, noise emission and trading hours, as well as details about what actions will be taken to ensure that premises will be responsibly managed, such as crowd control procedures, noise minimisation and waste management.

This plan will ensure that the operator of late night trading premises has considered and addressed any potential impacts that may arise from their operation during late night hours, as well enabling the Council to effectively assess any impacts of a proposal. It is the responsibility of the licensee to facilitate a well managed premises and display sensitivity about the impact of the premises on the liveability of neighbourhoods.

## 1.2 Planning

This plan responds to the requirements of Section 4.4.8.5 and Schedule 3 of the Sydney DCP 2012. It establishes a framework for how on-going operations are to be managed on site by the future operator which has yet to be appointed.

## 1.3 Operator Overview

Following submission of the development application, CE Minerva Pty Ltd ran an international search for an operator of the hotel and auditorium.

As part of this process CE Minerva Pty Ltd met with several operators on what was a physically viable and financially viable best use for the auditorium. Following discussions with several domestic operators a viable option was not identified and the search was extended into international markets. CE Minerva Pty Ltd have agreed terms with the Entertainment operator on a 10-year term with option to extend. The international entertainment and food and beverage operator has successfully managed heritage adapted properties with entertainment and food and beverage offerings. The Entertainment operator will employ a dedicated manager for the auditorium and will produce and manage the performances within the auditorium. The offering will run up to 5 days per week and outside of these times the auditorium venue will open to be hired by local performance groups, businesses and for events.

As part of the operator search CE Minerva Pty Ltd ran a competitive process with multiple established and international hotel operators. CE Minerva Pty Ltd have agreed terms with an international hotel operator to manage the hotel, café, and basement bar and the property. The hotel operator will act as the manager for the entire property and oversee the management of the Minerva auditorium. The tripartite agreement that is in place between CE Minerva, Hotel Operator and Entertainment Operator captures the sharing of services and back of house facilities.

The hotel operator will be required to adhere to the policies and procedures outlined in this plan, which will be reviewed every two years. It is noted that the plan will be a responsive document which continues to be refined with detailed input from the future hotel operator. It is acknowledged that the ongoing success of the hotel in the Sydney market is to an extent reliant on quality management and guest experience, therefore the appropriate management is paramount.

## 1.4 Implementation

The plan is a responsive document which can be updated to respond to changing regulations, procedures and practices. All staff and management at the hotel will be provided with a copy of the plan and briefed on the requirements as part of the employment induction process. A copy of the plan will be available on site at all times.

The hotel has and will adhere to the following rules of operation at all times:

- Comply with all regulatory approvals (refer section below);
- Comply with its House Policies (emergency and evacuation Procedures, RSA, cash handling and the like); and

- Ensure compliance with this plan.

# 2. Site and Locality Details

## 2.1 Site and Locality Details

The site is located at 28-30 Orwell Street, Potts Point and within the City of Sydney Council Local Government Area. An aerial photo of the site location is shown at **Figure 1.**




Figure 1. Aerial image of the subject site and immediate surrounds

## 2.2 Surrounding late night premises

The trading hours of other late-night trading premises currently operation within a 200m radius of the site is listed in the Table 1 below.

**Table 1. Late Night Venues within 200m of the site**

| No | Venue | Address | Approved Hours |
|---|---|---|---|
| 1 | The Roosevelt | 32 Orwell Street | 7.00am - 11:45pm (Indoor), Monday to Sunday |
| 2 | Jangling Jack's | 175 Victoria Street | 7.00am - 1.00am (Indoor), Thursday to Saturday |
| 3 | Potts Point Hotel / Boogie Mountain | 33-35 Darlinghurst Road | 10.00am - 5.00am (Indoor), Seven days a week |
| 4 | O Nightclub | 39 Darlinghurst Road | 8:00am to 6:00am, Sunday to Thursday<br>24 hours Friday and Saturday nights |
| 5 | Dulcie's | 44B Darlinghurst Road | 12.00pm and 3.00am, Monday to Saturday |
| 6 | Kings Cross Distillery | 127-133 Macleay Street | 8.00am to Midnight, Monday to Sunday |
| 7 | Dear Sainte Eloise Cafe | 29 Orwell Street | 7.00am - 12.00am, Monday to Sunday |

# 3. Building Use

## 3.1 Overview

The proposed mixed-use development comprises of the following:

- Basement Level 2: Back of house support spaces including furniture and entertainment stores, staff amenities, hotel administration, housekeeping, and linen stores.
- Basement Level 1: Small bar, main kitchen and stores, loading bay, waste, servicing, and bicycle parking.
- Ground Level: Shared lobby with lounge, adaptable performance and food and beverage venue, café, backstage amenities (green rooms), finishing kitchen, amenities, hotel reception and venue check in, 1 guest room, and servicing access.
- Floors 1-2: Food and Beverage seating as an extension of the Ground Level adaptable performance and food and beverage venue.
- Floors 1-6: Boutique hotel consisting of 63 hotel rooms.

A Plan is provided as an Appendix of this plan outlining the areas of the building and proposed uses.

## 3.2 Operational Details

The Minerva will address Potts Point community needs by providing a "vibrant, experimental, expressive, playful, fun, creative, connected and diverse" series of venues and experiences.

The main entry off Orwell Street leads into the foyer which is shared between the hotel reception and the auditorium entry. With the majority of guests checked in and checked out prior to the opening of the entertainment venue in the evening allows the foyer to be shared. The entertainment venue will not be a ticketed event with the exception of VIP shows.

The main auditorium space connecting Ground, Level 1, and Level 2 will be a venue hosting the next generation of Parisian Cabaret with food and beverage services. The music, theatre, and cinematography of the performances, enhanced by state-of-the-art sound & lighting, in refined interiors, with French hospitality, will offer a highly interactive show. A harmonious symphony designed to surprise the audience and engage with their hearts and minds. The concept is all about theatre where food sustains the experience, and the library of acts ensures every show is unique. Each night's theatre trajectory will include 8-10 sequences interspersed with food and drinks. The performers and entertainment staff for the Parisian Cabaret will be sourced through local talent.

While the main auditorium will primarily be used as bespoke entertainment there will be opportunities for local entertainment groups, businesses, and individuals to hire the venue between 2 and 3 days per week. The hotel operator will be available to provide support services such as ticketing, food and beverage, etc. for these groups.

Basement Level 1 is a small cocktail bar operated by the Hotel Operator and connected to the foyer above to offer a quieter space for patrons.

## 3.3 Back of House

The Hotel Operator will be the manager of the precinct. A tripartite agreement is in place between CE Minerva, Hotel Operator and Entertainment Operator to resolve any operational overlap including the sharing of services and back of house facilities.

The Entertainment venue will have a dedicated finishing kitchen, green rooms. The Hotel operator and Entertainment operator will share the loading dock, main prep kitchen, stores, administration offices, and staff amenities. The ground floor room which will operate as a VIP green room will also be shared between the Hotel operator and Entertainment operator and will be used as a hotel room when not required by VIP performers.

The document title The Minerva Operations Plan clearly identifies the required back of house areas have been accommodated and agreed with both operators. It also shows which areas are dedicated to each operator and which are shared.

### 3.4 Liquor License

An on-premise liquor license will be obtained from L&GNSW for the building which will relate to the hotel accommodation and all supporting food and beverage uses (entertainment venue, restaurant & bars).

A primary service authorisation will be obtained from L&GNSW to allow alcohol to be sold without accommodation or a meal (in a public restaurant) which will be obtained as part of the licence application.

# 4. Operational Management Plan

### 4.1 Overview

The operation of the hotel accommodation, food and beverage and entertainment is to have regard to:

- Ensuring maximum occupancy requirements are not exceeded;
- Waste minimisation, storage and collection procedures;
- Staffing arrangements including the number of staff to be employed;
- Any proposed shuttle service providing a pickup and drop off service to guests, including details of the timetable and set down arrangements;
- The maintenance and cleanliness of the premises;
- Ensuring the on-going workability of emergency systems including lighting and smoke detectors, sprinkler systems, and air conditioning;
- Ensuring staff are trained in relation to the operation of the approved Emergency Management and Evacuation Plan;
- Ensuring the placement and composition of furnishing and fittings achieve the appropriate fire safety requirements;
- Ensuring premises are regularly checked to ensure fire safety including that all required exits and egress paths are clear and free of locks and obstructions; and
- On-site security.

The hotel ensures senior management is responsive to the following:

- Requirements of the Police Service, in particular the Licensing Section;
- Requirements of officers of the City of Sydney Council, who may visit the premises from time to time in the performance of their statutory duties. They are to be afforded courtesy and issues raised by them are to be addressed in a sensible and prompt manner; and
- The hotel recognises the need to ensure the safety and security of customers, staff, residents and the greater community in which the hotel resides.

## 4.2 Hours of Operation

The Hotel Accommodation will operate 24 hours a day, 7 days a week. The hours of operation of the food and beverage and entertainment facility are requested to be increased beyond the base permitted hours under a 1 year trial period (calculated from the date of Occupancy Certificate) and will revert to the base hours stipulated in the Sydney DCP 2012 for a Category A or B premises within Local Centre Area unless an application is made to City of Sydney Council to renew or extend the trial trading hours.

Considering the boutique hotel will attract international visitors coming from varied time zones, there is demand to operate the entertainment facility, café, restaurant & bar consistent with the requested extended hours, 7 days per week. However, liquor will only be sold or supplied during any hours specified in the license issued by the Liquor Authority in relation to the premises.

The precinct anchored by the auditorium venue (G-L2) will be a catalyst for the area aligned with both the Sydney 24 Hour Economy Strategy and the Committee for Sydney's "a Vision for Kings Cross". It will bring a unique and international immersive entertainment experience that is unique to Sydney and Australia. For this reason we are requested the extended hours to 2am on Friday and Saturday. This closing time also aligns with the four venues of the same brand operating or in development in Europe.

**Ground Level Café**

The proposed hours of operation for ground level café are as follows:

- 7am Friday to 12am Friday
- 7am Saturday to 12am Saturday
- 7am Sunday to 12am Sunday
- 7am Monday to 12am Monday
- 7am Tuesday to 12am Tuesday
- 7am Wednesday to 12am Wednesday
- 7am Thursday to 12am Thursday

**Ground Level – Level 2 Entertainment Facility, Restaurant and Bar**

The proposed hours of operation for the Ground – Level 2 Entertainment Facility, Restaurant and Bar are as follows:

- 7am Friday to 2am Saturday
- 7am Saturday to 2am Sunday
- 7am Sunday to 1am Monday
- 7am Monday to 1am Tuesday
- 7am Tuesday to 1am Wednesday
- 7am Wednesday to 1am Thursday
- 7am Thursday to 1am Friday

The sale of liquor prior to 10am will be prohibited.

The Entertainment venue will typically operate 5 days a week as a 250-seat venue.

The other days (Monday and Tuesday) the venue will be available for hire.

**Basement Level 1 Small Bar**

The proposed hours of operation for the Basement Level 3 Small Bar are as follows:

- 10am Friday to 2am Saturday
- 10am Saturday to 2am Sunday
- 10am Sunday to 1am Monday
- 10am Monday to 1am Tuesday
- 10am Tuesday to 1am Wednesday
- 10am Wednesday to 1am Thursday
- 10am Thursday to 1am Friday

The proposed extended hours of operation in the basement are also based on a performance, creative and cultural use occurring for a minimum of 45 minutes after 6pm. The specific performance, creative or cultural use will be confirmed following the formal appointment of the hotel operator.

## 4.3 Patron Numbers

The maximum patron permitted within various areas in the building are as follows which excludes staff.

**Table 3. Patrons numbers**

| Level | Use | Total Patrons |
|---|---|---|
| Ground Level | Cafe | 30 (indoor) 18 (outdoor) |
| Ground Level - Level 2 | Entertainment Facility, Restaurant and Bar | 250 seats |
| Basement Level 1 | Small Bar | 110 |

The manager/licensee will be responsible for ensuring the number of persons in the premises does not exceed that specified above. The hotel will include internal visible signage alongside the Licensee's name stating the maximum number of persons, as specified in the development consent, that are permitted in the building.

## 4.4 Patron Arrival

The building entry lobbies along Orwell Street and Orwell Lane will be clearly themed and identified and will be managed by the entertainment venues and hotel staff at all times to manage guest check-in/outs. The Orwell Lane entry will be used for the small bar up to midnight and managed by the hotel staff at all times. After midnight all access will be managed through the main entry airlock.

All guest bookings and check in/out services will be carried out in the reception area and will be tracked by a Property Management Software system used to monitor and regulate hotel bookings.

## 4.5 Designed Taxi and Drop Off Zone

A designated drop off and taxi rank is proposed to Orwell Street for two vehicles. Vehicles are permitted for a maximum of one (1) minute at any one time in the drop-off zone.

The hotel visitor primary drop off / pick up would be the existing "No Parking" area along the Orwell Street kerbside frontage of the site.

## 4.6 Bicycle Parking

14 bicycle parking spaces and staff amenities are proposed within the basement level 2 and available for employees of the hotel accommodation and food and beverage uses. Staff will access the bicycle parking via Lift 3 accessed from ground level.

Visitor and customer bicycle parking is available in the public domain.

## 4.7 Venue Access

**Hotel Accommodation Rooms**

Access to the hotel rooms and the lower-level amenities will only be available via secured electronic key cards. Each card will only allow access to their corresponding level and communal facilities (e.g. Level 3 cards will not be able to access Level 4).

**Basement Level 1 - Small Bar**

Access to the basement level 1 bar is available via a lift and stairs accessed from the entry foyer via Orwell Lane and DDA access via Orwell Street. Access will be managed in accordance with the liquor license requirements. Orwell Lane access will be manned in the evenings by a host security guard- both trained in a guest-centric approach to people management, welfare & safety, and to ensure the street level noise and traffic is well managed to minimise impact on residents.

Access to the back of house facilities and loading will only be allowed by employees.

**Ground Level - Level 3 Entertainment Facility, Restaurant and Bar**

The Entertainment Facility, Restaurant and Bar will be accessed from the hotel entry foyer airlock to Orwell Street and Orwell Lane. Access will be managed in accordance with the liquor license requirements. Orwell Street access will be manned in the evenings by a host security guard- both trained in a guest centric approach to people management, welfare & safety, and to ensure the street level noise and traffic is well managed to minimise impact on residents.

**Ground Level Cafe**

The ground level café will be accessed from the foyer or directly from Orwell Street.

## 4.8 Maximum Stay – Hotel Rooms

The maximum permitted length of stay for the hotel rooms is three (3) months. Where accommodation is provided for more than 28 consecutive days, no more than two adults and one child are permitted per room.

## 4.9 Management of Large Groups

**Hotel Accommodation**

The proposed hotel will employ approximately 55 staff with approximately 4 management staff on site at any one time. The proposal is a boutique hotel, as such is not envisaged to generate large groups of people.

The lobby will be clearly identifiable and will be attended by trained staff to ensure the efficient management of patron check-in/outs and building related enquiries. Hotel management will monitor staff rostering schedules to ensure an appropriate ratio between the total number of staff and patrons is managed, particularly during peak arrival and departure times.

The ground floor has been carefully designed with two access points, baggage storage and lounge areas, as well as the cafe and venue for guest use as illustrated in the architectural plans. During peak periods, it is envisaged that guests will occupy these spaces, as such significant queuing is not expected. More specific patron management measures include:

Management and staff will take all reasonable steps to ensure that the behaviour of patrons entering and leaving the premises and whilst at the premises, does not detrimentally affect the amenity of the neighbourhood.

If necessary, signage will be prominently displayed at the premises requesting that patrons upon leaving do so quickly and quietly having regard to the amenity of the area.

Management will ensure patrons are directed to suitable nearby transport including train, light rail, buses and taxis to promote the orderly movement of groups during peak trading periods.

Groups who are being overly noisy will be asked by staff to quieten down.

Management will develop and implement practices relating to the management of large groups attending the premises to minimise the potential for adverse impacts.

**Ground Level – Level 3 Restaurant, Bar and Entertainment Facility**

During peak periods access to the performance venue will be via the Orwell Street entry. There is an area patrons can wait to be seated at the restaurant and bar entry and there will also be the opportunity to sit alongside the bar area and order a snack/drink whilst waiting for a table.

**Basement Level 1 Small Bar**

During peak periods, access to the basement small bar will be via the lift and stairs from the main lobby access from Orwell Street. There is an area available for queuing within the lounge adjacent to the entry foyer.

## 4.10 Public Transport

The site's central location and range of public transport options encourages travel by bus, train and foot. The hotel will contain maps that show the close proximity of key destinations and the area's transport hubs for visitors who may wish to visit using public transport.

## 4.11 Cleaning

The venue and hotel's housekeeping and stewarding staff are responsible for the maintenance of the premises to ensure it is always in a clean and tidy state. Staff will also ensure that areas surrounding the premises are monitored on a continual basis and that all fire escapes and stairways are kept clear of obstructions at all times.

## 4.12 Deliveries and Servicing

Deliveries and servicing to the hotel and other uses will occur in accordance with the following key principles:

- Deliveries of goods and services, and collection of waste and other materials is to occur via the loading dock accessed from Orwell Street.
- The majority of goods delivered, as well as waste collection will occur during off-peak periods, where possible. This will limit any disturbance to guests on the premises or the amenity of the surrounding area.
- Deliveries and collection of linen/laundry is to occur between the hours of 7am and 10pm, 7 days per week.
- Deliveries of goods to service the café, restaurant, and bars is to occur between the hours of 7am and 10pm, 7 days per week.
- Delivery vehicles that service the site are to be no larger than a small rigid vehicle (i.e. 6.4m length).
- The hotel's Management are responsible for coordinating delivery and servicing times to ensure that overlapping of delivery vehicles does not occur. This could include allocation of delivery windows for specific service providers.
- Access for deliveries and waste collection will not cause any interruption to the flow of external traffic. It will be desirable for all loading and unloading to be undertaken wholly within the premises with no deliveries, loading or unloading occurring on the street.

The architectural plans illustrate the proposed ground floor and basement level design, including the loading, waste collection and lobby space. A detailed loading dock management plan will be prepared in Consultation with the Hotel Operator prior to seeking an Occupation Certificate.

## 4.13 Staffing

It is estimated the mixed-use building will include the following staff:

- The hotel will employ approximately 55 full time with approximately 4 management staff allocated per shift. Additional part-time staff/contractors may be present on the site at any one time, such as security staff, as needed;
- 30 Staff associated with the Ground to Level 2 entertainment facility, restaurant and bar, however this number will vary depending on the event;
- 20 Staff for the Basement Small Bar, housekeeping and kitchen; and
- 5 Staff to the ground level café.

## 4.14 Recruitment and Equal Employment Opportunities

The operator is required to recruit the best person possible for the job, irrespective of colour, race, sex, sexual orientation, pregnancy, physical impairment or marital status and to encourage promotion.

The future operator must comply with Federal, State and Local Governments' policy of equal opportunity for all persons. This policy is based on the principles of Equity and Fairness embodied in the government's anti-discrimination legislation. The objectives of this legislation are to eliminate and ensure the absence of discrimination in employment and to actively promote equal employment opportunities for minorities, men, women, and the physically impaired.

## 4.15 Noise Management

The hours of operation are subject to compliance with the following noise management measures as outlined in the Acoustic Report Revision 11 as prepared by Acoustic Logic:

**Entertainment Venue –Ground, Level 1 and Level 2**

The following noise control measures are recommended for the use of performances within the main auditorium are of the development.

- All building openings are to be closed during periods when performances are being undertaken. Access during periods when performances are being conducted should be undertaken via an air lock to the venue.
- The playing of amplified music or speech is to be limited within the venue atrium to be no greater than 95 dB(A).
- A noise limiter will be installed as part of the sound system in the main venue space. During commissioning of the sound system, the limiter shall be calibrated such that noise output from this system does not exceed the recommended octave band Leq noise levels outlined in the acoustic report.
- The construction of the external elements of the building are to include the following minimum requirements:
    - Walls – Masonry or light weight construction with a minimum acoustic performance of Rw 55.
    - External roof – The external roof construction of the building will include a concrete construction with a minimum performance of Rw 55.
- During performances there should be permanent security guides which monitor the entry and exit of patrons from the site. The security guards should ensure patrons enter and exit the site in a manner which mitigates noise impact to neighbours.
- Permanent notices should be installed and the entry/exit points to the premises reminding patrons to reduce noise to neighbours.
- The proposed entertainment offering does not run like a theatre show with a fixed end time. Therefore the patrons will leave at all times up until closing. When exiting they will be directed to Macleay street to access Kings Cross Station, the Kings Cross Car Park.

**Foyer and Café**

A sound-lock configuration as part of main entry for the building into the foyer has been added to the design. The sound-lock includes a second set of doors with minimum performance of Rw30. The design of the sound lock will be further developed during the detailed design phase.

The operator will ensure the Café frontage doors and café outdoor area are to closed after midnight as per the hours of operation.

The existing original steel framed windows on the south and east facades of the main foyer area which are of exceptional significance, these may not be removable to replace with new glazing as specified in acoustic report.

Further the operator will ensure no playing of music or announcements are to be undertaken externally to the building. Playback of background music within the foyer and café internal areas will be limited to not cause patrons to speak over the background music. As per the acoustic report limiters will be installed for sound systems serving the foyer and café internal areas. The limiters are to be calibrated such that playback of background music in the foyer and café internal areas be limited to be no greater than an internal reverberant noise level of 74 dB(A).

**Small Bar**

The basement venue is proposed to be a small cocktail bar / speakeasy style venue, an internal reverberant noise level of 85 dBA would be considered representative of the highest noise level likely to result from the operation of the small bar venue. To ensure the suitable separation between the basement venue and the Ground floor area, the design and construction of the floor between the spaces is required to be constructed from a minimum acoustic performance of Rw 55.

**Hotel Accommodation**

The hotel rooms are located on Level 1, 2 and on the levels above the Entertainment venue. To mitigate noise impacts from the use of the internal atrium for cabaret and acoustic performances the following treatments are proposed:

- Floors separating the venue atrium and the hotel rooms above will include a minimum acoustic performance of Rw 60, with a minimum 1/1 octave performance as outlined in the acoustic report.
- Walls between hotel rooms and the venue atrium will include a construction of no less than Rw 60 a minimum 1/1 octave performance as outlined in the acoustic report.
- Any speakers or noise generating equipment will be vibration isolated from the building structure.
- Access to the entry of hotel rooms include an air lock arrangement between the venue and hotel rooms on ground and Level 2. Note the door from the Stage to the hotel corridor is a fire egress door which will be acoustically sealed and an satisfies an airlock requirement for the Room G.01.

The new hotel will be managed to minimise the potential of causing a nuisance, or an offensive noise as defined in the Protection of the Environment Operations Act 1997 to adjoining properties or the public. The following measures will be implemented:

- The hotel will ensure senior management is aware of the operational consequences of the plan to ensure that it is consistently enforced.
- All staff, as part of the induction process, will be required to be familiar with this Management Plan and will play an important part in maintaining a quiet ambience.
- Patrons of the hotel making any significant noise at sensitive times will be asked to reduce their volume and any customers behaving in an unsociable manner will be asked to moderate their behaviour.
- Additionally, the safety and security issues addressed in this Management Plan have been devised to ensure the quiet amenity of neighbouring properties is maintained at all times during the operation of the premises.

Staff will be encouraged to minimise noise whilst on site and always report any negative behaviour. Reports of all noise complaints will be documented in a register and kept on site. Staff will be encouraged to ensure that customers behave in an appropriate manner whilst on the site and do not disturb the neighbourhood when exiting the premises late at night.

The premises will be operated in accordance with noise conditions imposed by local authority as part of any development approval as well as any requirements of the relevant licensing authority. All sound emissions and noise management practices will comply with Council's requirements, the Protection of the Environment (Operations) Act 1997 and NSW Office of Liquor, Gaming and Racing (OLGR).

Key initiatives to minimise noise during normal hours and after hours include:

- Management and staff intervention;
- Noise limiting applications on sound systems and equipment;
- Passive Design noise barriers including screens and curtains.

## 4.16 Maximum Noise Levels

The recommended maximum external noise level criteria in accordance with the NSW NPI included within the approved Acoustic Report and conditions of consent must be complied with during the operation of the uses.

## 4.17 Waste Management

Waste and recycling will be collected 3 times a week and food waste collected daily.

All waste managing will be in accordance with the Waste Management Plan prepared by Elephants Foot provided and included with the DA. Waste collection, storage and removal from the site will be managed in accordance with the following principles:

- All waste is to be stored on site in the hotel garbage room prior to transfer to the holding bay adjacent to the loading dock;
- Hotel staff will empty bins from the hotel rooms and other areas on a daily basis and will transport this waste to the hotel garbage room. Waste will then be collected from the garbage room by a private contractor;
- At the time of collection, hotel staff will wheel bins from the hotel garbage room, down to the loading dock for collection. Collections will occur at a set time by a private collection contractor, as described below;
- Waste will be collected by a waste vehicle no larger than a small rigid vehicle (i.e. 6.4m length);
- Waste collection will occur from the Orwell Street entry;
- Hotel staff responsible for collecting waste will also be in charge of maintaining the garbage storage area so that it is clean and tidy at all times. The garbage storage area is to be hosed down and cleaned immediately after the collection and emptying of the waste bins;
- Any rubbish spillage outside the garbage area is to be cleaned immediately by the party responsible;
- The hotel management will ensure that areas surrounding the premises are monitored on a continual basis to ensure that all fire escapes and stairways are kept clear of objects at all times;
- At the start and completion of each business day, a complete patrol will be conducted of the immediate area surrounding the premises to ensure premises is secure, all rubbish is cleared, and the loading dock area is clear and clean; and

- As per the City of Sydney Council's policy the areas will comply with Council's Policy for Waste Minimisation in New Developments 2005, which requires facilities to minimise and manage waste and recycling generated by the proposal.

## 4.18 Cleaning

Hotel staff will ensure as far as practical that the premises is kept in a clean and tidy condition both internally and externally to the extent of the building that is managed and controlled by the hotel. Cleaning of both internal and external areas of the hotel will be undertaken by cleaning staff.

## 4.19 Graffiti

The premises will comply with common policy in relation to all Graffiti. Any damage to property by way of Graffiti will be removed from the site within 24 hours of being noticed.

## 4.20 Toilets

Toilets for employees, guests and visitors are to be provided in accordance with the approved plans and suitably signposted.

## 4.21 Landscaping

The site landscaping is designed to help integrate the built form into the site and surrounds. The proposed landscaping scheme avoids vegetation that impedes the effectiveness of outdoor lighting. It will be maintained regularly by an external landscape maintenance contractor to communicate an alert and active presence and maintain a high-quality appearance.

# 5. Security Management Plan

## 5.1 Security Overview

The hotel entries, lobby and foyer, loading dock, the event space, food and beverage spaces and common areas will be monitored 24 hours a day via CCTV monitoring, as well as by trained hotel staff during operating hours. The proposal is a boutique hotel, as such will not generate the need for full time security staff. Security staff will be employed on an as needs basis.

The hotel operator will set a high priority on the training and development of its team members. Further, it recognises that its continued and increased success within the hotel market is to an extent dependent upon the provisions of trained motivated team members at all levels and in all positions. In this way, guest safety is paramount.

All staff will be trained in relevant security measures. Staff initiation and ongoing training days will be held on a regular basis to reinforce safety and security procedures for each of the businesses. Training will ensure that in the event of a robbery, theft or anti-social behaviour, staff acts in a manner to best protect themselves and the guests. Employees will be encouraged to report any suspicious activity or persons in and around the area to the Management and / or Local Police.

Individual, secure, lockable storage facilities will be provided within each hotel room to allow guests to individually store key travel items within the room. An additional secure baggage store area will be provided near the hotel reception. The entire development will be secured by electrical key cards restricting and controlling access for hotel guests and staff.

## 5.2 Training Policy

The future hotel operator will be required to prepare a training policy to strive to set a high priority on the training and development of its team member.

All staff will be required to be trained in relevant security measures and staff training days will be held on a regular basis to reinforce safety and security procedures for each of the businesses. Training will ensure that in the event of a robbery, theft or anti-social behaviour, staff acts in a manner to best protect themselves. Employees will be encouraged to report any suspicious activity or persons in and around the area to the Management and / or Local Police.

The operator will require staff members to be proficient and appropriately certified in first aid qualification will be on duty to respond to a medical incident on the premises. Appropriate equipment such as Automated External Defibrillator devices and first aid kits will be available with staff trained in their use.

## 5.3 Building Design and Safety Procedures

The building has been designed to ensure the enjoyment and safety of guests.

The lifts will adequately service the guests to travel between the lobby, reception, the café, food and beverage and their hotel floor. Fire stairs have been incorporated into the design as an alternative means of egress during an emergency. Common areas and the hotel rooms will be sprinkler protected and a Building Occupant Warning System (BOWS) will be installed into the building for fire evacuations. All building emergency systems will be periodically tested including lighting and smoke detectors, sprinkler systems, and air conditioning as part of normal operational procedures.

An Emergency Management and Evacuation Plan will form part of the operation of the hotel and all staff and security will be appropriately trained in relation to administering and implementing the Plan.

A range of measures have been implemented into the building to minimise the impact of noise from adjoining neighbours within the building.

The hotel floors will be acoustically treated for both air borne noise and foot fall noise to comply with the requirements of City of Sydney Council's DCP and BCA. Walls between hotel rooms will be designed to comply with BCA and City of Sydney Council's DCP requirements, and all mechanical services will be treated for compliance with Sydney City

Councils criteria. From an operational perspective, all guest behaviour will be supervised by hotel management and integrated security.

## 5.4 Crime Prevention Through Environmental Design

This plan is consistent with the principles of Crime Prevention Through Environmental Design (CPTED) by creating environmental and social conditions that:

- Maximise risk to offenders (increasing the likelihood of detection, challenge and apprehension);
- Maximise the effort required to commit crime (increasing the time, energy and resources required to commit crime);
- Minimise the actual and perceived benefits of crime (removing, minimising or concealing crime attractors and rewards); and
- Minimise excuse-making opportunities (removing condition that encourage/ facilitate rationalisation of inappropriate behaviour).

The safety and security issues addressed in this plan are consistent with current policies that ensure the quiet amenity of neighbouring properties is maintained at all times during the operation of the premises. All staff, as part of the induction process, are required to be familiar with this plan.

## 5.5 CCTV Camera

The security and safety of employees and the general public are to be of top priority to the management of the premises.

The hotel will have CCTV surveillance cameras in the premises in strategic places including the building entry points, hotel lobby, loading dock and common areas. This system has automated recording technology, longer video storage capacity and video motion detection.

All cameras will operate 24 hours a day. The surveillance tapes / videos are to be kept for at least 1 month for viewing by the Police if required. The quality of the images filmed are to satisfy Police requirements.

Management will ensure the system is maintained and in good working order. Management are to ensure that the coverage is operated with due regards to the privacy and civil liberties of all persons within the development and in strict accordance with the Privacy and Personal/Information Protection Act 1998.

## 5.6 General Surveillance

The hotel's employees are encouraged to assist with passive surveillance of all areas of the development and in particular the ground level food and beverage and reception areas by providing efficient reporting systems for any security or safety concerns.

There is a clear line of sight from the reception to the lift entrance to the rooftop food and beverage area. Security personnel will be utilised during peak use to monitor the entrance to the rooftop area.

A central basement entry lobby is provided to ensure surveillance of both the areas of the entertainment venue.

Clear lines of sight and lighting will be provided within the hotel lobby and at street level to activate the ground plane, encourage passive surveillance and deter anti-social or criminal behaviour.

The hotel will undertake a risk assessment analysis on a continual basis to determine the need for security personnel in the hotel.

## 5.7 Lighting

External lighting will be provided around the building and building entries to enable clear vision and will be designed in such a manner so as to prevent concealment and shadowing. The standard of lighting will not only reduce the fear of crime in accordance with Australian lighting standards, but also serves to provide clear identification of activity using the high technology CCTV cameras proposed.

Broken light fixtures and bulbs within the premises will be replaced within 48 hours.

## 5.8 Space Management

Routine maintenance checks and reporting will be carried out by personnel employed at the hotel to ensure the property is maintained and to reduce the likelihood of crime or vandalism. Landscaping will be maintained in a manner that communicates an alert and active presence. Furthermore, robust materials are proposed to be used where possible to mitigate against potential malicious damage. Any vandalism or graffiti should be repaired and removed promptly by staff or contractors.

## 5.9 Guest and Patron Management

The following are the key principles adopted by the hotel to manage individual patrons and crowds:

- All staff are to be trained with regards to the obligations, practices and procedures of the Hotel with regards to Responsible Service of Alcohol;
- The hotel does not serve liquor to intoxicated patrons. As well, intoxicated patrons are not allowed to remain on the premises, and due to the nature of the area, this is, and will continue to be tightly controlled by hotel management;
- The hotel refuses entry to intoxicated persons coming from other venues in order to reduce incidences;
- All staff, as part of the induction process, are fully briefed on how they should address and caution potentially inebriated or unusually vocal customers in order to minimise the likelihood of disturbing the quiet and good order of the neighbourhood;
- Customers making any noise are asked to leave quietly and quickly and any customers loitering are asked to move on;
- The safety and security issues addressed in this plan have been devised to ensure the quiet amenity of neighbouring properties is maintained at all times during the operation of the premises;
- Hotel employees are encouraged to assist with passive surveillance of all areas of the development. Staff will be encouraged to call their Supervisor or Manager if any difficulties arise to quickly "intercept" any potentially noisy, rowdy or abusive patrons to attempt to calm them down as much as possible as they leave; and
- The security patrons will occur within the premise.

## 5.10 Weapons

Weapons of any type, i.e. knives, firearms, etc., will not be permitted at any time, unless in the hands of authorised security personnel or Police.

## 5.11 Theft

In the event that theft occurs involving a guest, every effort must be made to assist the guest in any way possible, i.e. forms, police report, telephone calls. All personal information must be recorded on the Incident Report Form in case any items are recovered at a future time.

Incidents involving staff members must also be documented on the Incident Report Form and any necessary policy reports must be completed. A list of all items missing must be recorded.

The theft of any property on the premises must be reported to the police for insurance purposes. All thefts must be documented clearly and concisely on an Incident Report Form.

## 5.12 Antisocial Behaviour

The hotel will adopt a zero-tolerance approach to antisocial behaviour at the premises.

## 5.13 Complaints Handling

The hotel operator staff members will undergo complaints training to ensure that they are skilled in being able to appropriately manage complaints or when they are required to be elevated to a Manager. Generally, all complaints will be dealt with by Managers.

Staff will be trained to handle complaints by teaching them the LAST process – Listen, Apologise, Solve and Thank.

Staff are trained to know how and when to turn over complaints to Managers.

As a basic course of procedure if a hotel guest or member of the public becomes irate and threatens someone, the following actions should be followed:

a) A Manager will be requested to address the guests concerns and take appropriate action to resolve the situation.
b) If the guest continues to behave in an unsatisfactory or threatening way the person will be asked to leave the premises.
c) If the person refuses, as a last resort, consider calling the police;
d) This incident or complaint would be required to be noted in the complaints register.

Complaints will be handled by management and staff at the hotel. Guests will also have the opportunity to escalate issues to head office.

## 5.14 Incident Reporting and Complaints Register

A register is to be kept, which identifies any incidents that may have occurred or complaints that are considered to be worth noting. The complaints register is to include details of the complaint date and time, name, contact and address details of person(s) making the complaint, nature of complaint, name of staff on duty, action taken by premises to resolve the complaint, follow-up and outcome. A copy of the register will be made available to the Police within 48 hours upon request if requested.

Staff must not resist a robbery and are required call the police after the person(s) has left the building, at which time doors are locked. The hotel must stop trading until emergency services arrive. The entries within the incident/complaints register will be used as a basis for the review and amendment to this plan of management as required. A review of the incident/complaints register will be undertaken annually.

## 5.15 State Health & Safety Regulatory Authority

Any Notice / document / request that are raised by a State Health & Safety Regulatory Authority Inspector must be immediately communicated to the OHS Manager who will then ensure that all other appropriate personnel are informed. The OHS Manager will then develop an Action Plan / Actions with responsibilities to address the issue raised.

## 5.16 Consultation

CE Minerva Pty Ltd are committed to ongoing consultation with adjoining property owners, Police and Council to foster a better understanding of relevant operational issues that may arise at the site and would be available to be contacted to discuss potential issues as they may arise.

Ongoing review of this document may be undertaken to ensure that the plan remains relevant to the operation of the Hotel and that issues that arise can be managed into the future.

## 5.17 Security Guards Numbers

The number of security guards required for the premises will be determined based on consultation with the Local Area Command and NSW Department of Industry as part of the liquor licence approval process. This plan of management will be updated prior to the issue of an Occupation Certificate to reflect the security guard requirements included in the approval liquor licence.

The following amount of security guards will be provided as an estimation as illustrated in the table below.

Table 4. Estimated Security Guard Numbers

| Level | Use | Total Patrons | Total Security Guards |
|---|---|---|---|
| Ground Level | Cafe | 40 | - |
| Ground Level – L2 | Entertainment Facility, Restaurant and Bar | 250 | 4 |
| Basement Level 1 | Small Bar | 120 | 1 |
| | | **Total Security Guards** | **5** |

There will be an increase in security in times where higher than average patronage is expected (eg. during public entertainment, peak periods on weekends, New Years Eve, following large sporting events in the locality, during special events and functions etc).

Any recommendations from Local Licensing Police regarding appropriate security provision and a statement outlining the extent of compliance with police recommendations will be included in the updated plan of management following approval of the licence license and appointment of an operator of the premises.

## 5.18 Responsible Service of Alcohol

This section of the plan of management is to be updated based on the operational responsible service of alcohol requirements detailed in the issued liquor license. Likely methods employed to implement harm minimisation and the responsible service of alcohol (RSA) requirements such as:

- Employee training and awareness regarding RSA and harm minimisation;
- Approaches that will be used to manage intoxicated and/or disorderly persons;
- Promotion of non-alcoholic beverages and provision of free water;
- The display of the premises' house policy;
- Assisting patrons in accessing safe transportation from the premises (eg. arranging taxis, public transport timetable information)
- Encouraging responsible drinking;
- Ensure at least one security guard within each premise is a trained RSA marshal and will monitor patrons for signs of intoxication; and
- Any drug use to be reported to the local police.

## 5.19 Security Staff Prodecures and provisions

Details of the procedures and provisions that will be implemented to improve premises security are detailed below:

- Security staff will be trained in emergency procedures, crowd control, search procedures;
- Security staff regularly record the maintenance of an incident register;
- Security staff monitor the numbers of patrons within the premises and their behaviour;
- The proprietor/licensee includes membership of the Licensing Accord;
- Security staff are informed of the relevant dress code, include distinctive security attire, educated of the security protocols;

- Security staff monitor the removal of any glass from the premises; and
- Security staff are issued electronic counting devices and signage is displayed showing patron limits for premises.



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# Attachment G

**View Impact Assessment**

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# Development Strategy – Metro-Minerva Hotel, 28-30, Orwell Street, Potts Point. Lot 1, 2, 3 and 4 DP 456456, and Lot 10, DP 10682.

## Visual Impact Assessment Report, May, 2023.

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## 1. INTRODUCTION

1.1 Scope and Purpose of Report.

This Visual Impact Report has been prepared by Urbaine Architectural for Central Element. The report is provided to accompany a Development Strategy for The Metro-Minerva Hotel located at 28-30 Orwell Street, Potts Point. The subject site is located between Macleay Street (east) and Victoria Street (west) within 400m of Kings Cross Station and 480m to the Woolloomooloo harbour front Finger Wharf.

Urbaine Architectural, and its Director, John Aspinall, BA(Hons), BArch(Hons) have been preparing 3d imagery and Visual Impact Assessments, both in Australia and Internationally for over 25 years. Their methods are regularly published in planning and architectural journals and John Aspinall has lectured in Architectural Design at both the University of Technology Sydney and The University of New South Wales.



Figure 1 – site location shown in red overlay.

1.2 The Proposed Development

1.2.1.The Site and existing property:

The subject site is located at 28-30 Orwell Street, Potts Point and is within the City of Sydney Local Government Area (LGA). The site is legally described as Lot 1, 2, 3 and 4 DP 456456, and Lot 10, DP 10682. The site itself is rectangular and occupies a corner plot with a primary frontage to Orwell Street and a secondary frontage to Orwell Lane to the east. It is currently known as the 'Metro Theatre' and contains a five-storey building with basement.
The Metro Theatre building is currently listed as being of local heritage significance, including its interior due to its Art Deco design. Currently, the building consists of five storeys and a basement level and is approximately 22 metres in height.

- Site Address: 1, 2, 3, & 4/DP456456 & 10/DP10682
- Boundary / Street Frontages: Northern Boundary: 46.44m
- Orwell Lane: 24.54m , Orwell Street: 46.44m , Western Boundary: 28.02m
- Site Area: 1,267m2 (survey plan prepared by Abacus)

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Figure 2 – site location shown in red overlay.

1.2.2.Proposed Land Use and Built Form:

The site falls within the B4 mixed use zone. The proposal is permissible with consent and will meet the objectives of the zone.
The subject Development Strategy incorporates the following:

- Basement Level 2: Storage, services, plant, gym and toilets
- Basement Level 1: Loading bay, parking, waste, storage, kitchen, plant and small bar
- Ground Floor Level: Shared lobby, adaptable performance venue, leased cafe, bar, backstage support storage and amenities, 1 performance guest room, substation, toilets and servicing access.
- Floor Levels 1 & 2: Seating as an extension of the adaptable performance venue and toilets.
- Floors Ground to 6: Hotel consisting of a total of 63 hotel rooms

1.3 Methodology of Assessment:

The methods used by Urbaine, for the generation of photomontaged images, showing the proposed development in photomontaged context are summarised in an article prepared for New Planner magazine in December 2018 and contained in Appendix B. A combination of the methods described were utilised in the preparation of the photomontaged views used in this visual impact assessment report. This same methodology is currently under review by the Land and Environment Court as a basis for future VIA guidelines to supercede the current instructions, attached as Appendix C.

1.3.1.Process:

Initially, a fully contoured 3d model was created of the site and surrounding buildings to the extent of the designated viewpoints, with detailed modelling matching the building envelope of the latest Tonkin Zulaikha Greer Architects design and its associated interaction with the surrounding site (see Figure 2 for plan).
Virtual cameras were placed into the 3D model to match various selected viewpoints, in both height and position. These locations were measured on-site, relative to known, existing physical elements, such as trees, light poles, walls etc. From these cameras, rendered views have been generated and photomontaged into the existing photos, using the ground plane for alignment (allowing 2 set camera heights for standing and sitting positions being at 1600mm and 1100mm respectively, where appropriate). Several site location poles were placed, both physically and also into the 3d model to allow accurate alignment with the original photo.
The final selection of images shows these stages, including the block montage of the original development

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application and concluding with an outline, indicating the potential visual impact and view loss. The images within the report are of a standard lens format, as are the views contained within Appendix A.
The Visual Impact Assessment includes detailed evaluation of views from several properties along Orwell Street and Macleay Street, from several apartments at various levels.

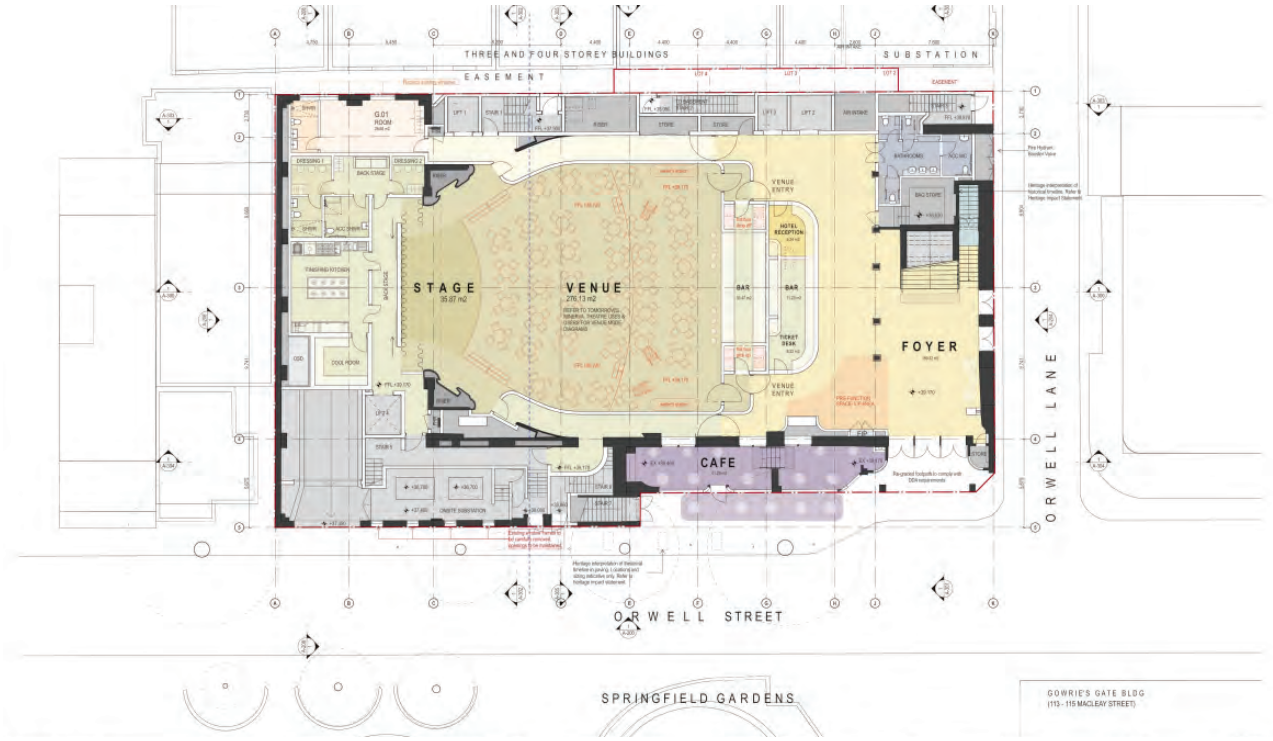


Figure 3 – Plan of proposed design by Tonkin Zulaikha Greer Architects.

### 1.3.2.Assessment Methodology:

There are no set guidelines within Australia regarding the actual methodology for visual impact assessment, although there are a number of requirements defined by the Land and Environment Court (LEC) relating to the preparation of photomontages upon which an assessment can be based (Appendix C).
Where a proposal is likely to adversely affect views from either private or public land, Council will give consideration to the Land and Environment Court's Planning Principle for view sharing established in Tenacity Consulting v Warringah Council [2004] NSWLEC 140. This Planning Principle establishes a four-step assessment to assist in deciding whether or not view sharing is reasonable:

Step 1: assessment of views to be affected.
Step 2: consider from what part of the property the views are obtained.
Step 3: assess the extent of the impact.
Step 4: assess the reasonableness of the proposal that is causing the impact.

It is noted that the preliminary proposal complies with the development standards of the City of Sydney Council LEP 2012 and some private view loss is unavoidable within a highly urbanised environment, such as Potts Point.

An additional source of reference in relation to view sharing and visual impact in this area is found within the neighbouring Woolahra Council DCP, 2012. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, we have a combination of elements that limit reasonable access to views from surrounding properties – unmanaged hedges and a large roof structure on the boundary of the adjoining property.

However, although these reference documents provide guidelines for assessment, there is no peer review system for determining the accuracy of the base material used for such visual impact assessments. As a result, Urbaine Architectural provides a detailed description of its methodologies and the resultant accuracy verifiability – this is contained within Appendix B.

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The methodology applied to the visual assessment of the current design proposal has been developed from consideration of the following key documents:

- Environmental Impact Assessment Practice Note, Guideline for Landscape Character and Visual
- Impact Assessment (EIA-N04) NSW RMS (2013);
- Visual Landscape Planning in Western Australia, A Manual for Evaluation, Assessment, Siting and Design, Western Australia Planning Commission (2007);
- Guidelines for Landscape and Visual Impact Assessment, (Wilson, 2002);

In order to assess the visual impact of the Design Proposal, it is necessary to identify a suitable scope of publicly, or privately accessible locations that may be impacted by it, evaluate the visual sensitivity of the Design Proposal to each location and determine the overall visual impact of the Design Proposal. Accessible locations that feature a prominent, direct and mostly unobstructed line of sight to the subject site are used to assess the visual impact of the Design Proposal. The impact to each location is then assessed by overlaying an accurate visualisation of the new design onto the base photography and interpreting the amount of view loss in each situation, together with potential opportunities for mitigation.
Views of high visual quality are those featuring a variety of natural environments / landmark features, long range, distant views and with no, or minimal, disturbance as a result of human development or activity. Views of low visual quality are those featuring highly developed environments and short range, close distance views, with little or no natural features.
Visual sensitivity is evaluated through consideration of distance of the view location to the site boundary and also to proposed buildings on the site within the Design Proposal. Then, as an assessment of how the Design Proposal will impact on the particular viewpoint. Visual sensitivity provides the reference point to the potential visual impact of the Design Proposal to both the public and residents, located within, and near to the viewpoint locations.

Site Inspections:
site inspections were undertaken to photograph the site and surrounding area to investigate:

- The topography and existing urban structure of the local area
- The streetscapes and houses most likely to be affected by the Proposal
- Important vistas and viewsheds
- Other major influences on local character and amenity

The map, see figure 4, indicates chosen locations for site photography – also shown in Appendix A.




Figure 4: Selected neighbouring property viewpoint locations for visual impact assessments.

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Contextual Analysis
An analysis was undertaken of the visual and statutory planning contexts relevant to the assessment of visual impacts in a Development Application.

Visual Impact Analysis
The visual impacts of the proposed development were analysed in relation to the visual context and assessed for their likely impact upon the local area and upon specific residential properties.

Statutory Planning Assessment

The results of the local view impact assessment are included in Section 3 of this report, with large format images included in Appendix A.

1.4 References:

The following documentation and references informed the preparation of this report:

- The design drawings and information relied upon for the preparations of this report were prepared by Tonkin Zulaikha Greer Architects.
- City of Sydney Council DCP, 2012.
- Creating Places for People - An Urban Design Protocol for Australian Cities: www. urbandesign.gov.au/downloads/index.aspx/
- Australia and New Zealand Urban Design Protocol:
- www.mfe.govt.nz/publications/urban/design-protocol-mar05/urban-design-protocol-colour.pdf
- The Value of Urban Design:
- www.designcouncil.org.uk/Documents/Documents/Publications/CABE/the-value-of-urban-design.pdf
- Fifteen Qualities of Good Urban Places:
- www.goldcoast.qld.gov.au/planning-and-building/fifteen-qualities-of- good-urban-places-3774.html
- The Image of the City (1960), Kevin Lynch

---

**2. THE SITE AND THE VISUAL CONTEXT.**

Visual impacts occur within an existing visual context where they can affect its character and amenity. This section of the report describes the existing visual context and identifies its defining visual characteristics. Defining the local area relevant to the visual assessment of a proposed development is subject to possible cognitive mapping considerations and statutory planning requirements. Notwithstanding these issues, the

surrounding local area that may be affected by the visual impact of the proposed development is considered to be the area identified on in the topographical area map, Figure 5.
Although some individuals may experience the visual context from private properties with associated views, the general public primarily experiences the visual context from within the public realm where they form impressions in relation to its character and amenity. The public realm is generally considered to include the public roads, reserves, open spaces and public buildings. This shows the rising landform to the south and east of the subject site.
The visual context is subject to “frames of reference” that structure the cognitive association of visual elements. The “local area” (as discussed above) provides one such frame of reference. Other “frames of reference” include the different contextual scales at which visual associations are established and influence the legibility, character and amenity of the urban environment. Within the scope of this report three contextual scales are considered relevant to the analysis of the visual context and the visual impact of the proposed development.

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Figure 5: Potts Point - subject area topographical map.

The ‘Street Context’ provides a frame of reference for reviewing the visual relationship of the new development (and in particular its facades) in relation to the adjoining pedestrian spaces and roads. Elements of the development within this frame of reference are experienced in relatively close proximity where, if compatible with the human scale they are more likely to facilitate positive visual engagement and contribute to the “activation” of adjoining pedestrian spaces.

The ’Neighbourhood Context’ provides a broader frame of reference that relates the appearance of the development as a whole to the appearance of other developments within the local area. As a frame of reference, it evolves from the understanding gained after experiencing the site context and the low density of development. Within this context the relative appearance, size and scale of different buildings are compared for their visual compatibility and contribution to a shared character from which a unique “sense of place” may emerge. This frame of reference involves the consideration of developments not necessarily available to view at the same time. It therefore has greater recourse to memory and the need to consider developments separated in time and space. The neighbourhood context is relevant to the visual ’legibility’ of a development and its relationship to other developments, which informs the cognitive mapping of the local area to provide an understanding of its arrangement and functionality.

The ‘Town / City Context’ provides a frame of reference that relates the significance of key developments or neighbourhoods to the town as a whole. The contribution that distinctive neighbourhoods make (or may potentially make) to the image of the city can be affected by the visual impact of an individual development through its influence on the neighbourhood’s character and legibility. Within this context, it is also important to be aware of other proposed developments in the area.

## 2.1 The Visual Context:

Within the street context, there is a mix of property types, sizes and architectural styles, most of which maximise viewlines to the north and west in their orientation.
Within the urban context, there is a very diverse fabric, in terms of planning and scale, consisting of a mix of

residential, retail and commercial developments of many varying architectural designs and styles. There are also many heritage listed buildings in this area.

## 2.2 Visual Features and Local Landmarks:

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Particular elements in the urban pattern, through either location and/or built form provide visual nodes and landmarks that assist in differentiating locations within the broader visual context. The following visual nodes are considered to be of the greatest significance in terms of their contribution to the character and legibility of the local and surrounding area:
Views to Sydney Harbour, Harbour Bridge, Rushcutters Bay, Macleay Point, Elizabeth Bay, Garden Island, lower North Shore Harbour suburbs and the Sydney CBD.

2.3 Streetscapes:

Within the immediate and surrounding areas, the streetscapes are typical of the suburbs of Kings Cross and Potts Point, being a mixture of individual houses and apartments blocks of varying scales, commercial buildings and multi-storey hotels. There are many heritage buildings within the area and the landscaping is predominantly mature and well established. Wide pavements are generally the norm, responding to the large amount of pedestrian traffic, utilising public transport into the Sydney CBD.

2.4 The selected view locations for the local view analysis:

As a result of the site's topography, the visual impact is primarily relevant to the residential properties to the south and east of the subject site.
A large number of site photos were taken and a smaller number of specific views selected from these, relevant for private viewing locations, as described above. These are all static viewpoints, namely, fixed locations where potential view loss could be considered significant
The selected photos are intended to allow consideration of the visual and urban impact of the new development at a local level and, specifically, from the neighbouring properties on the eastern side of New Beach Road. They incorporate private viewing locations with more distant, elevated, or panoramic views, where the subject site falls within, and impacts on the midground and background views.

2.5 Context of View:

The context of the view relates to where the proposed development is being viewed from. The context is different if viewed from a neighbouring building, or garden, as is the case in parts of this assessment, where views can be considered for an extended period of time, as opposed to a glimpse obtained from a moving vehicle.

2.6 Extent of View:

The extent to which various components of a development would be visible is critical. In this case, the proposal is for redevelopment of, and additions to, the existing Minerva Theatre. It is therefore considered to have a local scale visual impact. If the development proposal was located in an area containing buildings of a similar scale and height, it would be considered to have a lower scale visual impact.
The capacity of the landscape to absorb the development is to be ranked as high, medium or low, with a low ranking representing the highest visual impact upon the scenic environmental quality of the specific locality, since there is little capacity to absorb the visual impact within the landscape, apart from within the existing street trees surrounding the subject site.

---

**3. VISUAL IMPACT OF THE PROPOSED DEVELOPMENT.**

3.1 Visual Impact Assessments from 18 viewpoint locations – in and around the private apartments and environs to the south west and south east of the subject site at Nos. 28-30, Orwell Street.

3.1.1.Method of Assessment:

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In order to allow a quantitative assessment of the visual impact, photos were selected that represented relevant viewing locations from the specific locations likely to be affected. Within these areas, photographs were taken from the property boundaries, equating to standing height views within the relevant buildings.
A Canon EOS Full Frame Digital Camera with fixed focal length 35mm lens was used to take all viewpoint photos, at an eye level of 1600mm. This was tripod-mounted and levelled.
The photos include location descriptions, to be read in conjunction with the site map, contained in Appendix A. Additionally, information is supplied as to the distance from the site boundary for each location and the distance to the closest built form is provided in Section 3.1.2 below.

Viewpoint numbers are based on the original folder numbers for filing of the unedited raw images and production files and have no relationship to position or apartment location.

The view assessment photography was prepared using a 24mm and lens with a Canon full frame digital camera. (35mm film equivalent). Photos are cropped to a 50mm frame for the visual impact assessment and 50mm frame (49.6 degrees) overlaid of the 24mm (73.7 degrees) image in the appendix A for additional context closer to the field of view from a human eye.

2 Surveys + an additional point cloud survey were used.
The 2 surveys are attached in Appendix :
i) LTS Surveyors 14/08/2020
ii) TSS - Total Surveying Solutions. 2d and point cloud survey 12/07/2022 - Dharmendra Singh, Registered Surveyor No.8592.

Wireframe images were composited, incorporating the point cloud survey into the photography for alignment - shown in the Appendix.




Figure 6: Cross Section, indicating height locations for the various levels of the existing and proposed building.

To assess the visual impact, there are 2 relevant aspects - view loss of actual substance (landscape, middle and distance view elements etc.) and also direct sky view loss. To a large extent, the value associated with a view is subjective, although a range of relative values can be assigned to assist with comparing views. Figure 6 is a scale of values from 0 to 15, used to allow a numeric value to be given to a particular view, for the purposes of comparison.
On the same table are a series of values, from zero to 15, that reflect the amount of visual impact.

The second means of assessment relates to assigning a qualitative value to the existing view, based on criteria of visual quality defined in the table – see figure 7.

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The % visual content is then assessed, together with a visual assessment of the new development's ability to blend into the existing surroundings.

| Scale | Value | Visual quality | Visual impact |
|---|---|---|---|
| 0 | **Negligible** | N/A | No negative impact on the pre-existing visual quality of the view. |
| 1<br>2<br>3<br>4<br>5 | **Low** | Predominant presence of low quality manmade features. Minimal views of natural formations (e.g. cliffs, mountains, coastlines, waterways, ridges etc). Uniformity of land form. | A minor negative impact on the pre-existing visual quality of the view.<br>Examples:<br>– Minor impacts on natural landscapes.<br>– No impact on iconic views<br>– Impacts on a small number of receivers.<br>– Significant distance between the development and receiver. |
| 6<br>7<br>8<br>9<br>10 | **Medium** | Presence of some natural features mixed with manmade features. Some views of distinct natural formations (e.g. cliffs, mountains, coastlines, waterways, ridges etc). | A medium negative impact on the pre-existing visual quality of the view:<br>Examples:<br>– Moderate impacts on iconic views or natural landscapes.<br>– Impacts on a moderate number of receivers.<br>– Located nearby the receiver. |
| 11<br>12<br>13<br>14<br>15 | **High** | Predominantly natural features. Minimal manmade features, however if present of a high architectural standard. Significant views of distinct natural formations (e.g. cliffs, mountains, coastlines, waterways, ridges etc). Presence of iconic regional views or landmark features. | A high negative impact on the pre-existing visual quality of a view:<br>Examples:<br>– Loss of iconic views.<br>– Impacts on a significant number of receivers.<br>– Overshadowing effect.<br>– Directly adjacent the receiver. |

Figure 7 – Urbaine Architectural Visual Assessment Scale

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Assessment at selected viewpoints.

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# Viewpoint no.01



01 t IMG_8342 A.jpg

**Viewpoint no.01: Existing site photo. Unit 604 of 113-115, Macleay Street - Level 6.**

From outdoor balcony of apartment no.604, at nos.113-115, Macleay Street.
RL +62.18m: From standing height, looking northwest towards subject site.
Distance to site boundary: 16.9mm. Distance to proposed new building - center of auditorium: 35.56m



01 t IMG_8342 C.jpg

**Photomontage of new proposal**

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01 t IMG_8342 D.jpg

**Viewpoint no.01: Visual Impact of new proposal, indicated through cyan overlay.**
Visual impact – portion of building visible in view – 44%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 10/15
Visual Impact Assessment Scale no: 6/15

This is a static, private viewpoint, from the outdoor rooftop deck area of apartment No.604 of 113-115, Macleay Street - Level 6. The view stretches from the east into Potts points adjacent buildings, north Sydney to the north and to the south CBD to the west. The view loss is almost entirely of the upper floors of buildings adjacent to the subject site and a part of the northern end of Sydney CBD. Partial views of the Harbour Bridge and Opera House are not impacted by the new additions.

The view loss, as a result of the new design proposal, would be considered of minor-to-moderate significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: Medium-to-high (with partial iconic elements)
View location: Primary living space – standing 1m behind balcony balustrade.
Extent of impact: Minor-to-moderate.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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ISSUE: 05/06/23

DWG NO: MINVIA_14

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## Viewpoint no.02



02 t IMG_8351 A.jpg

**Viewpoint no.02: Existing site photo. Unit 604 of 113-115, Macleay Street - Level 6.**

From living room windows of apartments at nos.113-115, Macleay Street. Level 6, Unit no.604.
RL +62.25m
m: From standing height, looking northwest towards subject site.
Distance to site boundary: 19.62m. Distance to proposed new building - center of auditorium: 39.4m



02 t IMG_8351 C.jpg

**Photomontage of new proposal**

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02 t IMG_8351 D.jpg

**Viewpoint no.02: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 11%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 9/15
Visual Impact Assessment Scale no: 3/15

This is a static, private viewpoint, from the indoor living room area of apartment No.604 of 113-115, Macleay Street - Level 6. The view looks north to Potts points adjacent buildings and to north Sydney to the north. The view loss is almost entirely of elements of buildings adjacent to the subject site. Partial views of the Harbour Bridge and North Sydney are not impacted by the new additions.

The view loss, as a result of the new design proposal, would be considered of negligible-to-minor significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: low-to-medium
View location: Primary living space – standing 1m behind main glazing line.
Extent of impact: Negligible-to-minor
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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DWG NO: MINVIA_16

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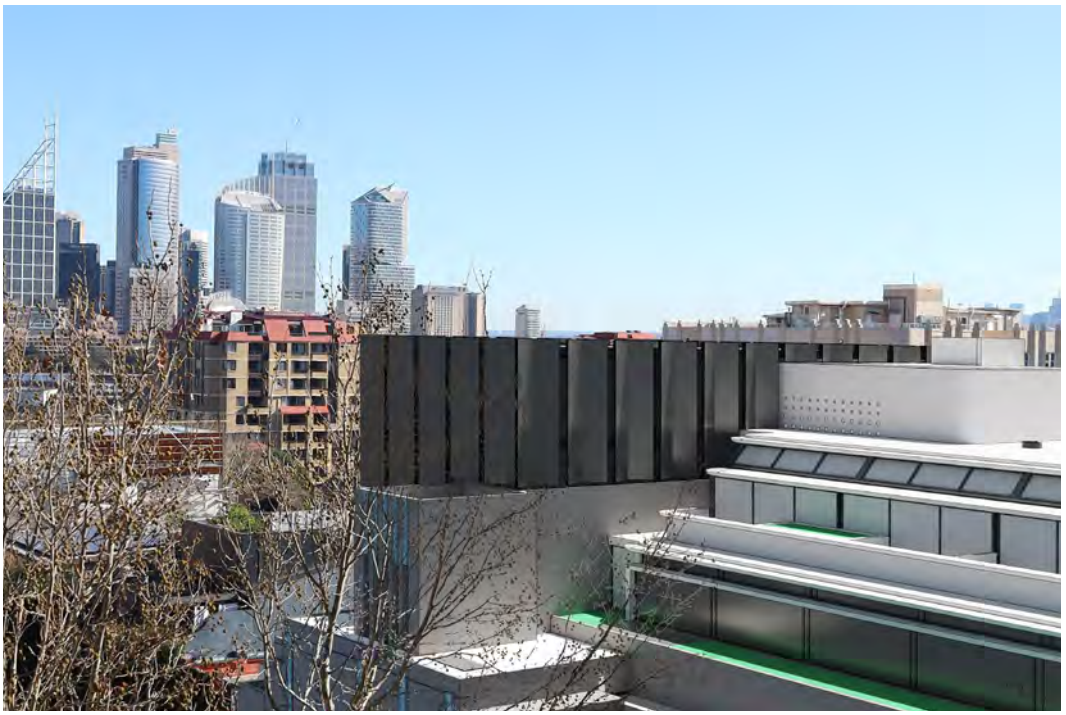
## Viewpoint no.03



03 t IMG_8359 A.jpg

**Viewpoint no.03: Existing site photo. Unit 604 of 113-115, Macleay Street - Level 6.**

From west facing outdoor deck area of apartment no.604 of 113-115, Macleay Street. Level 6.
RL +62.17m: From standing height, looking north west to the north end of the CBD and North Sydney
Distance to site boundary: 28.5m. Distance to proposed new building - center of auditorium 44.8m



03 t IMG_8359 C.jpg

**Photomontage of new proposal**

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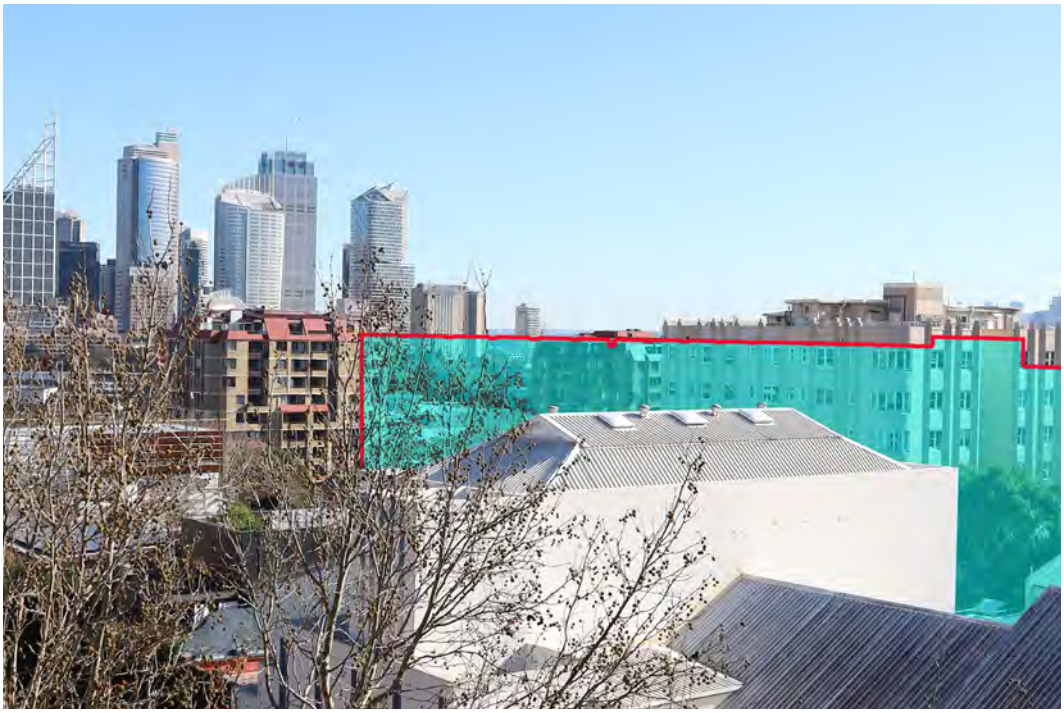

03 t IMG_8359 D.jpg

**Viewpoint no.03: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 42%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 9/15
Visual Impact Assessment Scale no: 7/15

This is a static, private viewpoint, from the outdoor deck area of apartment No.604 of 113-115, Macleay Street - Level 6. The view in a westerly 180 degree view of over Potts Points adjacent buildings and Woolloomooloo to views of the CBD and North Sydney to the north. The view loss is almost entirely of the tops of buildings adjacent to the subject site. Partial views of the Harbour Bridge and North Sydney are not impacted by the new additions.

The view loss, as a result of the new design proposal, would be considered of minor-to-moderate significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: low-to-medium
View location: Primary living space – standing 1m behind balcony balustrade.
Extent of impact: Minor-to-moderate.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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DWG NO: MINVIA_18

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## Viewpoint no.06



06 t IMG_8414 A.jpg

**Viewpoint no.06: Existing site photo. Unit 505 of 113-115, Macleay Street - Level 5**

From office area windows of adjacent apartments at nos.113-115, Macleay Street. Level 5, Unit no.505
RL +59.16m: From seated height, looking northwest towards subject site.
Distance to site boundary: 16.627m. Distance to proposed new building - center of auditorium: 43.119m



06 t IMG_8414 C.jpg

**Photomontage of new proposal**

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06 t IMG_8414 D.jpg

**Viewpoint no.06: Visual Impact of new proposal, indicated through cyan overlay.**
Visual impact – portion of building visible in view – 29%
Visual impact ratio of view loss to sky view loss in visible portion. 97%: 3%
Existing Visual Quality Scale no: 11/15
Visual Impact Assessment Scale no: 8/15

This is a static, private viewpoint from the office of apartment No.505 of 113-115, Macleay Street - Level 5
The view is over to neighboring buildings of Potts point to the east and north then west when the highest value views are observed behind the existing theatre building and are partially impacted by the additions. Views to the north west, to the northern end of the CBD are partially impacted by the new development at the lower levels.

The view loss is of the northern end of Sydney CBD and the tops of buildings adjacent to the subject site. Partial views of the Harbour Bridge and Opera House are impacted by the new additions. Consideration must be given to the fact the affected elements are at 45 degrees to the main view.

The view loss, as a result of the new design proposal, would be considered of moderate significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: Medium-to-high (with partial iconic elements)
View location: Secondary living space – standing 1m behind main glazing line of study.
Extent of impact: Moderate.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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DWG NO: MINVIA_20

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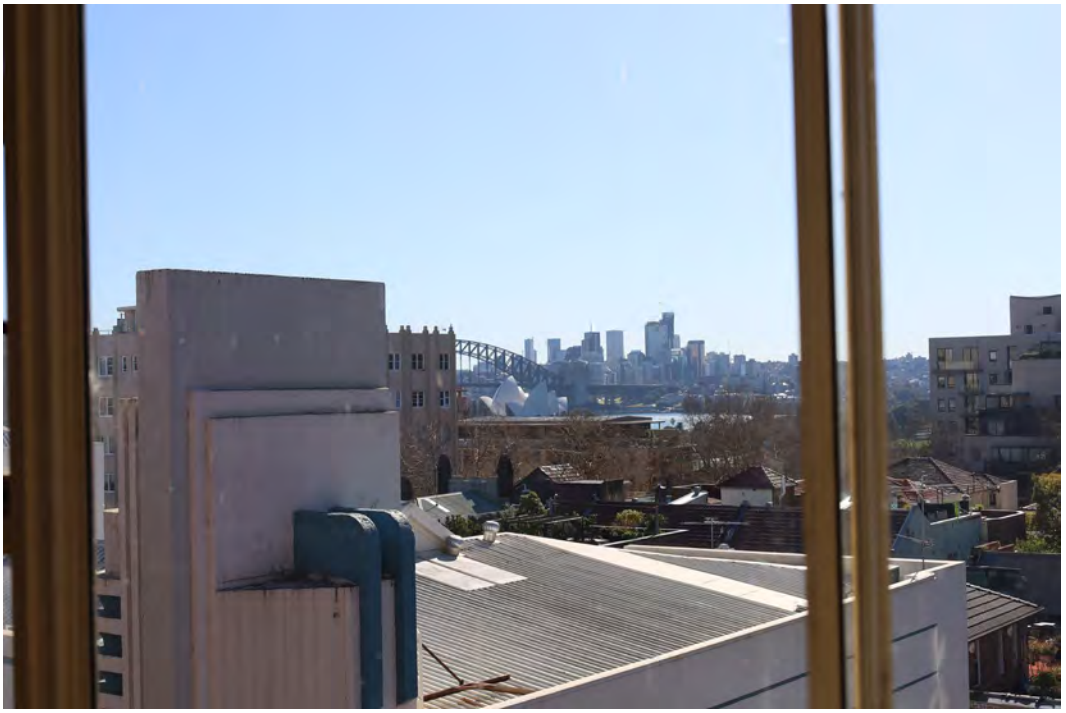
## Viewpoint no.07



07 t IMG_8427 A.jpg

### Viewpoint no.07: Unit 505 of 113-115, Macleay Street - Level 5

From office area windows of adjacent apartments at nos.113-115, Macleay Street. Level 5, Unit no.505
RL +59.16m : From standing height, looking west towards subject site.
Distance to site boundary: 19.394m. Distance to proposed new building - center of auditorium: 44.284m



07 t IMG_8427 C.jpg

### Photomontage of new proposal

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07 t IMG_8427 D.jpg

**Viewpoint no.07: Visual Impact of new proposal, indicated with cyan overlay.**

Visual impact – portion of building visible in view – 30%
Visual impact ratio of view loss to sky view loss in visible portion. 96%: 4%
Existing Visual Quality Scale no: 11/15
Visual Impact Assessment Scale no: 8/15

This is a static, private viewpoint from the office of apartment No.505 of 113-115, Macleay Street - Level 5
The view is over to neighboring buildings of Potts point to the east and north then west when the highest value views are observed behind the existing theatre building and are partially impacted by the additions. Views to the north west, to the northern end of the CBD are partially impacted by the new development at the lower levels.

The view loss is of the northern end of Sydney CBD and the tops of buildings adjacent to the subject site. Partial views of the Harbour Bridge and Opera House are impacted by the new additions. Consideration must be given to the fact the affected elements are at 45 degrees to the main view.

The view loss, as a result of the new design proposal, would be considered of moderate significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: Medium-to-high (with partial iconic elements)
View location: Secondary living space – standing 1m behind main glazing line of study.
Extent of impact: Moderate.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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DWG NO: MINVIA_22

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# Viewpoint no.08



08 w IMG_6301 a.jpg

## Viewpoint no.08: Existing site photo. Unit 603 of 113-115, Macleay Street - Level 6

From standing position, 1m back from external deck balustrade
RL 61.95m
Distance to site boundary: 16.957m
Distance to centre of subject site: 41.533m



08 w IMG_6301 c.jpg

## Photomontage of new proposal

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08 w IMG_6301 d.jpg

**Viewpoint no.08: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of new proposal visible in view – 72%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 10/15
Visual Impact Assessment Scale no: 7/15

This is a static, private viewpoint from the office of apartment No.603 of 113-115, Macleay Street - Level 5
The view is over to neighboring buildings of Potts point to the east and north then west when the highest value views are observed behind the existing theatre building and are partially impacted by the additions. Views to the north west, to the northern end of the CBD are partially impacted by the new development at the lower levels.

The view loss is of the northern end of Sydney CBD and the tops of buildings adjacent to the subject site. Views of the Harbour Bridge and Opera House are not impacted by the new additions. Consideration must be given to the fact the affected elements are at 45 degrees to the main view.

The view loss, as a result of the new design proposal, would be considered of minor-to-moderate significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: High (with partial iconic elements)
View location: Primary living space – standing 1m behind balcony balustrade.
Extent of impact: Minor-to-moderate
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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DWG NO: MINVIA_24

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# Viewpoint no.10



10 w IMG_6337 a.jpg

## Viewpoint no.10: Existing site photo. Unit 603 of 113-115, Macleay Street - Level 6

From standing position,1m back from main living room north facing glazed doorwayof apartment No.603 of 113-115, Macleay Street
RL 61.95m
Distance to site boundary: 23.02m
Distance to centre of subject site: 44.464m



10 w IMG_6337 c.jpg

## Photomontage of new proposal

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10 w IMG_6337 d.jpg

**Viewpoint no.10: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of new proposal visible in view – 9%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 12/15
Visual Impact Assessment Scale no: 3/15

This is a static, private viewpoint, from the main living room of apartment No.603 of 113-115, Macleay Street - Level 6. The view stretches from the east into Potts points adjacent buildings, north Sydney to the Harbour Bridge and Opera House to the west. The view loss is almost entirely to small elements of buildings adjacent to the subject site.Partial views of the Harbour Bridge and Opera House are not impacted by the new additions.

The view loss, as a result of the new design proposal, would be considered of negligibile-to-minor significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: High (with partial iconic elements)
View location: Primary living space – standing 1m behind main glazing line - living room.
Extent of impact: Negligible-to-minor.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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ISSUE: 05/06/23

DWG NO: MINVIA_26

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# Viewpoint no.13



13 w IMG_6374 A.jpg

## Viewpoint no.13: Existing site photo. Unit 603 of 113-115, Macleay Street - Level 6

From seated position, 1m back from second living area/ office
RL 61.655m
Distance to site boundary: 21.853m
Distance to centre of subject site: 46.833m



13 w IMG_6374 C.jpg

## Photomontage of new proposal

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13 w IMG_6374 D.jpg

**Viewpoint no.13: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of new proposal visible in view – 9%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 10/15
Visual Impact Assessment Scale no: 2/15

This is a static, private viewpoint, from the secondary living area /office of apartment No.603 of 113-115, Macleay Street - Level 6. The view looks north to Potts points adjacent buildings and to north Sydney to the north. The Opera House and approximately half of the Harbour Bridge are observed in the distance.
The view loss is of small portions of the buildings adjacent to the subject site. The partial views of the Harbour Bridge and North Sydney are not impacted by the new additions.

The view loss, as a result of the new design proposal, would be considered of negligible significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: medium-to-high
View location: Secondary living space – standing 1m behind main glazing line - kitchen.
Extent of impact: Negligible.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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ISSUE: 05/06/23

DWG NO: MINVIA_28

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# Viewpoint no.14



14 w IMG_6383 a.jpg

## Viewpoint no.14: Existing site photo Unit 603 of 113-115, Macleay Street - Level 6

From standing position, 1m back from second living area/office RL 62.014m
Distance to site boundary: 21.813m
Distance to centre of subject site: 47.719m



14 w IMG_6383 c.jpg

## Photomontage of new proposal

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14 w IMG_6383 d.jpg

**Viewpoint no.14: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of new proposal visible in view – 9%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 12/15
Visual Impact Assessment Scale no: 1/15

This is a static, private viewpoint, from the indoor kitchen area of apartment No.603 of 113-115, Macleay Street - Level 6. The view looks north to Potts points adjacent buildings and to north Sydney to the north. The Opera House and approximately half of the Harbour Bridge are observed in the distance.
The view loss is of small portions of the buildings adjacent to the subject site. The partial views of the Harbour Bridge and North Sydney are not impacted by the new additions.

The view loss, as a result of the new design proposal, would be considered of negligible significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: medium-to-high
View location: Secondary living space – standing 1m behind main glazing line - kitchen.
Extent of impact: Negligible.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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DWG NO: MINVIA_30

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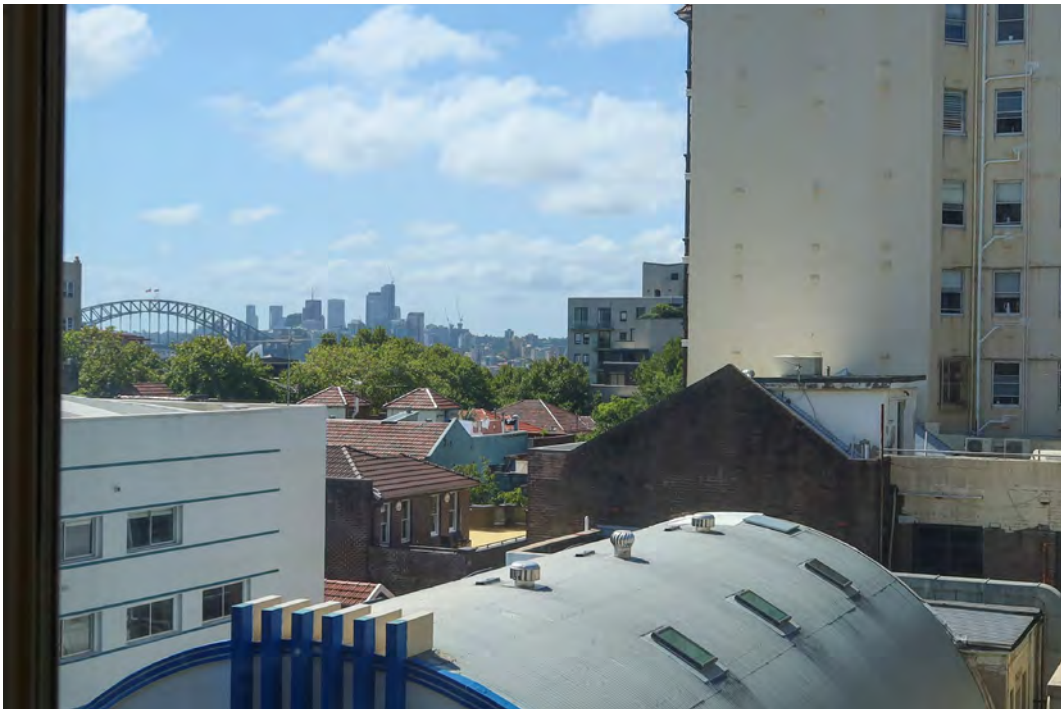
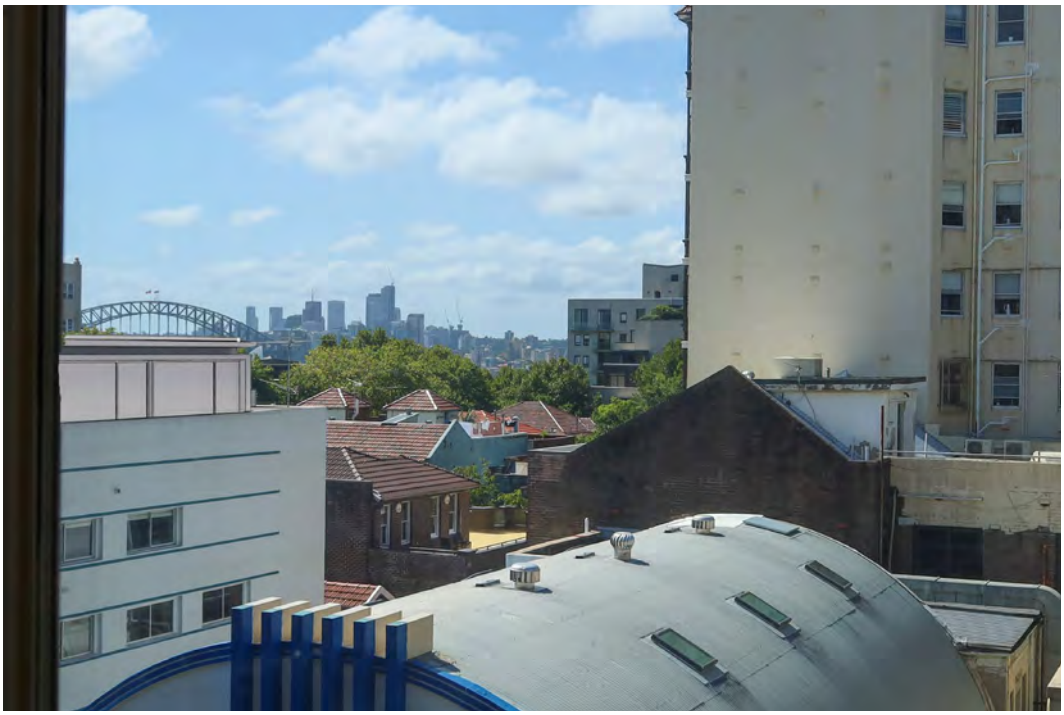
## Viewpoint no.15



15 w IMG_6394 a.jpg

### Viewpoint no.15: Existing site photo. Unit 404 of 113-115, Macleay Street - Level 4

From standing position, 1m within internal glazing line – living room
RL 56.021m
Distance to site boundary: 26.079m
Distance to centre of subject site: 52.891m



15 w IMG_6394 c.jpg

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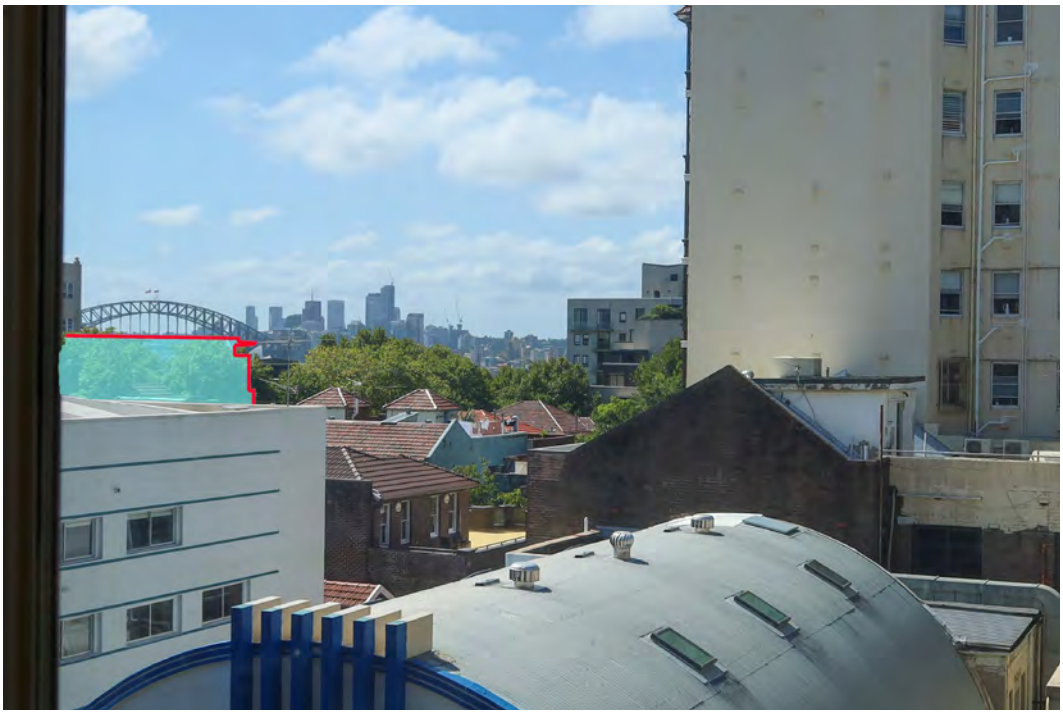

15 w IMG_6394 d.jpg

**Viewpoint no.15: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of new proposal visible in view – 9%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 11/15
Visual Impact Assessment Scale no: 4/15

This is a static, private viewpoint, from the indoor living room area of apartment No.404 of 113-115, Macleay Street - Level 4. The view looks north to Potts points adjacent buildings and to north Sydney to the north. The harbour bridge main arch is visible to the roadway. Neither the southern pylon of the bridge, or the Opera House arevisible,
The view loss is almost entirely of the trees adjacent to the subject site. Partial views of the Harbour Bridge and North Sydney are not impacted by the new additions, although there is a minor impact upon the mid-section of the harbour bridge road span, observable in a gap between the middle-distance trees.

The view loss, as a result of the new design proposal, would be considered of minor significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: Medium-to-high (with partial iconic elements)
View location: Primary living space – standing 1m behind main glazing line - living room.
Extent of impact: Minor
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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## Viewpoint no.16



16 w IMG_6416 a.jpg

### Viewpoint no.16: Existing site photo. Unit 404 of 113-115, Macleay Street - Level 4

From standing position, 1m within internal glazing line – bedroom
RL 55.996m
Distance to site boundary: 23.171m
Distance to centre of subject site: 49.873m



16 w IMG_6416 c.jpg

### Photomontage of new proposal

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16 w IMG_6416 d.jpg

**Viewpoint no.16: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of new proposal visible in view – 8%
Visual impact ratio of view loss to sky view loss in visible portion. 83%: 17%
Existing Visual Quality Scale no: 10/15
Visual Impact Assessment Scale no: 7/15

This is a static, private viewpoint, from the indoor living room area of apartment No.404 of 113-115, Macleay Street - Level 4. The view looks north to Potts points adjacent buildings and to north Sydney to the north. The harbour bridge main arch is visible to the roadway. Neither the southern pylon of the bridge, or the Opera House arevisible,
The view loss is almost entirely of the trees to the rear of the subject site. The lower portion of the harbour bridge main arch is also impacted by the new proposal.

The view loss, as a result of the new design proposal, would be considered of moderate significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: Medium-to-high (with partial iconic elements)
View location: Secondary living space – standing 1m behind main glazing line - bedroom.
Extent of impact: moderate
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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## Viewpoint no.17



17 w IMG_6435.jpg

### Viewpoint no.17: Existing site photo. Unit 404 of 113-115, Macleay Street - Level 4

From seated position, 1m within internal glazing line – Living area
RL 55.784m
Distance to site boundary: 26.99m
Distance to centre of subject site: 53.285m



17 w IMG_6435 C.jpg

### Photomontage of new proposal

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17 w IMG_6435 D.jpg

**Viewpoint no.17: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of new proposal visible in view – 8%
Visual impact ratio of view loss to sky view loss in visible portion. 86%: 14%
Existing Visual Quality Scale no: 10/15
Visual Impact Assessment Scale no: 9/15

This is a static, private viewpoint, from the indoor living room area of apartment No.404 of 113-115, Macleay Street - Level 4. The view looks north to Potts points adjacent buildings and to north Sydney to the north. The harbour bridge main arch is visible to the roadway. Neither the southern pylon of the bridge, or the Opera House are visible.
The view loss is of the trees behind the site and the lower 50% of the main arch of the harbour bridge

The view loss, as a result of the new design proposal, would be considered of moderate significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: Medium-to-high (with partial iconic elements)
View location: Primary living space – sitting 1m behind main glazing line - living room.
Extent of impact: Moderate.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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# Viewpoint no.18



18 w IMG_6451 a.jpg

## Viewpoint no.18: Existing site photo. Unit 506, 113-115 Macleay Street

From standing position, 1m within internal glazing line – North facing living room
RL 58.898m
Distance to site boundary: 17.33m
Distance to centre of subject site: 38.647m



18 w IMG_6451 c.jpg

## Photomontage of new proposal

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18 w IMG_6451 d.jpg

**Viewpoint no.18: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 31%
Visual impact ratio of view loss to sky view loss in visible portion. 97%: 3%
Existing Visual Quality Scale no: 7/15
Visual Impact Assessment Scale no: 7/15

This is a static, private viewpoint from the living room of apartment No.506 of 113-115, Macleay Street - Level 5 The view is over to neighboring buildings of Potts point to the east and north then northwest to views of the distant harbour foreshore around Kirribilli and Neutral Bay. No iconic elements are visible.

The view loss is of small portions of the buildings adjacent to the subject site and to the trees behind these. Consideration must be given to the fact the affected elements are at 45 degrees to the main view.

The view loss, as a result of the new design proposal, would be considered of minor-to-moderate significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: Medium
View location: Primary living space – standing 1m behind main glazing line.
Extent of impact: Minor-to-moderate.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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ISSUE: 05/06/23

DWG NO: MINVIA_38

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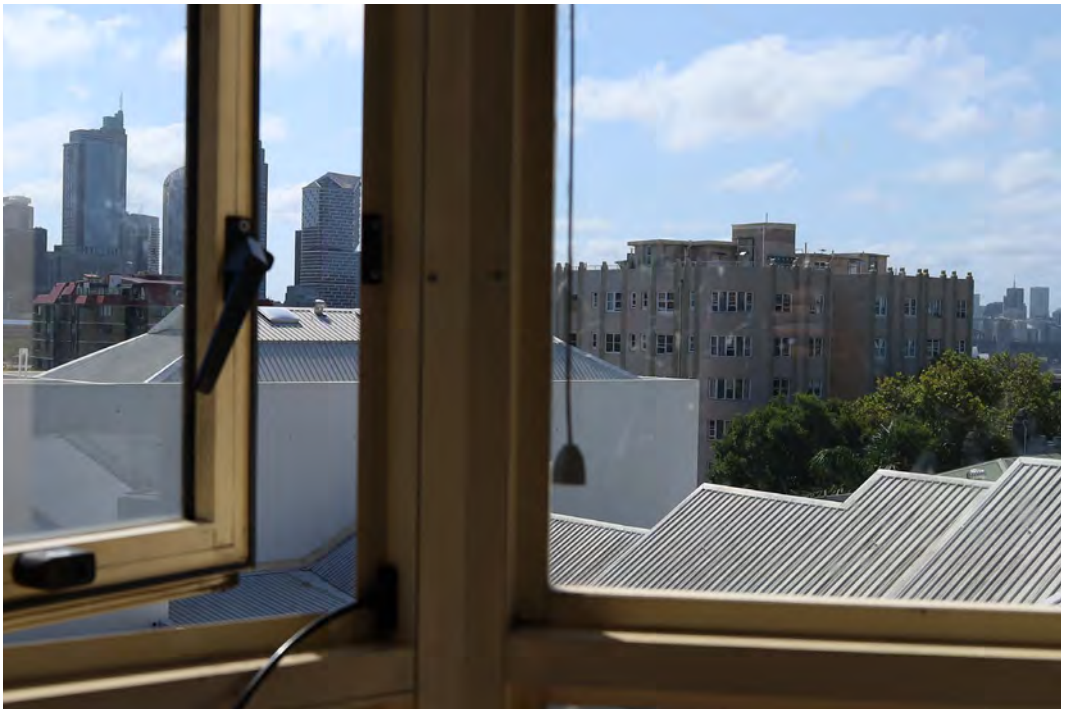
## Viewpoint no.19



19 w IMG_6484 a.jpg

### Viewpoint no.19: Existing site photo. Unit 506, 113-115 Macleay Street

From standing position, 1m within internal glazing line – North west facing bedroom room.
RL 58.898m
Distance to site boundary: 13.994m
Distance to centre of subject site: 35.168m



19 w IMG_6484 c.jpg

### Photomontage of new proposal

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19 w IMG_6484 d.jpg

**Viewpoint no.19: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 57%
Visual impact ratio of view loss to sky view loss in visible portion. 92%: 8%
Existing Visual Quality Scale no: 8/15
Visual Impact Assessment Scale no: 9/15

This is a static, private viewpoint from the northwest facing bedroom of apartment No.506 of 113-115, Macleay Street - Level 5
The view is over to the neighboring buildings of Potts point to the east and north then west to partial views of North Sydney and of the northern end of the main Sydney CBD.

The view loss is of parts of the tops of buildings adjacent to the subject site. The lower elements of the distant foreshore are also impacted. There is a glimpse of the top of the eastern sail of the Opera House, chich is also impacted by the new proposal. Consideration must be given to the fact the affected elements are at 45 degrees to the main view.

The view loss, as a result of the new design proposal, would be considered of moderate significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: Medium
View location: Secondary living space – standing 1m behind main glazing line - bedroom.
Extent of impact: Moderate
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the

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## Viewpoint no.20



20 w IMG_6525.jpg

**Viewpoint no.20: Existing site photo. Unit 506, 113-115 Macleay Street**

From seated position, 1m within internal glazing line – North facing living room
RL 58.611m
Distance to site boundary: 17.089m
Distance to centre of subject site: 38.775m



20 w IMG_6525 C.jpg

**Photomontage of new proposal**

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20 w IMG_6525 D.jpg

**Viewpoint no.20: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 13%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 7/15
Visual Impact Assessment Scale no: 4/15

This is a static, private viewpoint from the living room of apartment No.506 of 113-115, Macleay Street - Level 5 The view is over to neighboring buildings of Potts point to the east and north then northwest, where any high value views are already blocked by neightbouring residential buildings. The distant foreshore of Kirribilli and Neutral Bay is also observable.

The view loss is limited to trees behind the subject site and a small portion of the residential building to the northwest,

The view loss, as a result of the new design proposal, would be considered of minor significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: low-to-medium
View location: Primary living space – sitting 1m behind main glazing line.
Extent of impact: Minor
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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# Viewpoint no.22



22 w IMG_6558 a.jpg

## Viewpoint no.22: Existing site photo. Unit 1107 and rooftop, 5-15 Orwell Street

From standing position, 1m back from balustrade
RL 67.863m
Distance to site boundary: 60.443m
Distance to centre of subject site: 76.487m



22 w IMG_6558 c.jpg

## Photomontage of new proposal

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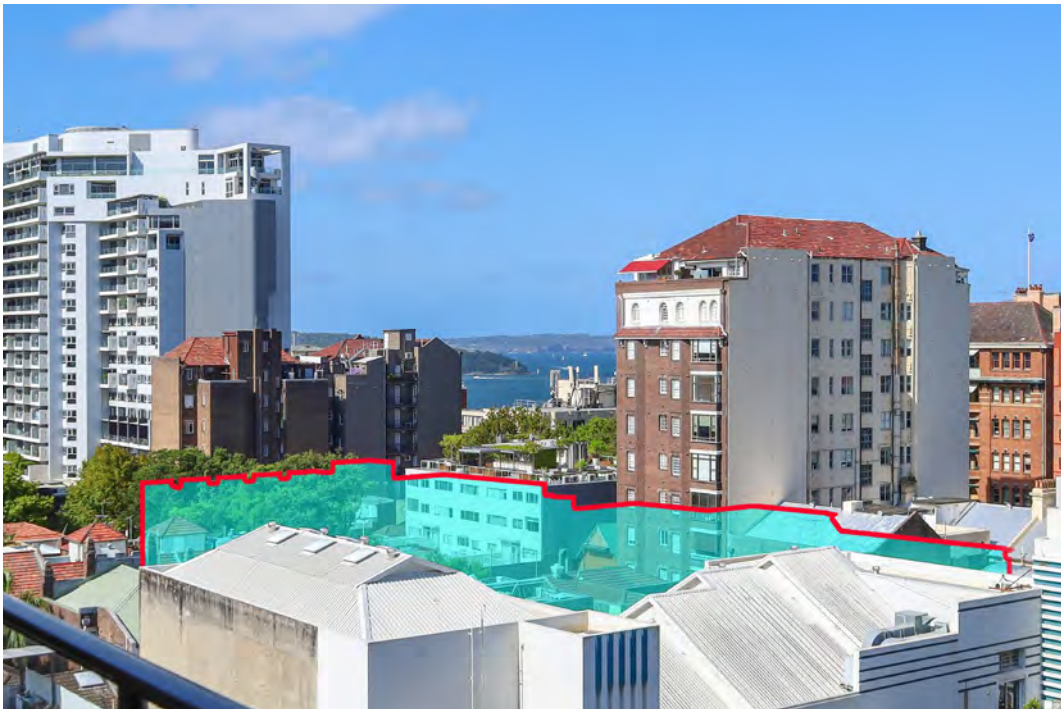

22 w IMG_6558 d.jpg

**Viewpoint no.22: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 93%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 11/15
Visual Impact Assessment Scale no: 4/15

This is a static, private viewpoint from the level 11 balcony of the apartment no.1107 at Nos.5 to 15, Orwell Street. The highest value views sit directly behind the existing building to the north-east, with water glimpses of Sydney Harbour towards The Heads, beyond Rushcutters Bay and Darling Point. At level 11, a small section of the harbour is clearly visible, with distant views of Middle Head and the Manly foreshore, with a small area of water fronting these.

The view loss, existing and proposed, is limited to buildings adjoining the site and some mature trees to the north. This would be considered a negligible-to-minor impact under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. The new design proposal also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: Medium-to-high.
View location: Primary living space – standing 1m behind balcony balustrade.
Extent of impact: Negligible-to-minor
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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DWG NO: MINVIA_44

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## Viewpoint no.23



**Viewpoint no.23: Existing site photo. Unit 1107 and rooftop, 5-15 Orwell Street**

From standing position, 1m within internal glazing line – Living room
RL 67.953m
Distance to site boundary: 60.443m
Distance to centre of subject site: 76.487m



**Photomontage of new proposal**

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**Viewpoint no.23: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 7%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 4/15
Visual Impact Assessment Scale no: 2/15

This is a static, private viewpoint from the living room of apartment no.1107, at Nos.5 to 15, Orwell Street. The highest value views sit directly behind the existing buildings to the north-east. No water, or iconic views are observed from this location. The view is limited to rooftops of neighbouring buildings and middle-distant views of Elizabeth Bay apartment buildings.

The view loss, existing and proposed, would be considered negligible under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. The new design proposal also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: Low
View location: Primary living space – standing 1m behind main glazing line - living room.
Extent of impact: Negligible.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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# Viewpoint no.26



26 w IMG_6669 a.jpg

## Viewpoint no.26: Existing site photo. Rooftop, 5-15 Orwell Street

From standing position, 1m back from external glazed balustrade on south east corner – Shared rooftop
RL 76.818m
Distance to site boundary: 67.848m
Distance to centre of subject site: 83.886m



26 w IMG_6669 c.jpg

## Photomontage of new proposal

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26 w IMG_6669 d.jpg

**Viewpoint no.26: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 17%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 13/15
Visual Impact Assessment Scale no: 3/15

This is a static, private viewpoint from the shared rooftop of the apartments at Nos.5 to 15, Orwell Street. The highest value views sit directly behind the existing building to the north-east, with water glimpses of Sydney Harbour towards The Heads beyond Rushcutters Bay and Darling Point. At level 12, a small section of the harbour is clearly visible, with distant views of Middle Head and the Manly foreshore, with a small area of water fronting these.

The view loss, existing and proposed, would be considered negligible-to-minor under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. The view loss is limited to neighbouring buildings to the north east and mature trees to the north of the subjects site. The new design proposal also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: High.
View location: Secondary living space – standing 1m behind main glazed balustrade on shared rooftop.
Extent of impact: Negligible-to-minor
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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DWG NO: MINVIA_48

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# Viewpoint no.28



28 w IMG_6713 a.jpg

## Viewpoint no.28: Existing site photo. Unit 602, 113-115 Macleay Street

From standing position, 1m within balustrade, external deck area.
RL 62.21
Distance to site boundary: 28.919m
Distance to centre of subject site: 55.872m



28 w IMG_6713 c.jpg

## Photomontage of new proposal

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28 w IMG_6713 d.jpg

**Viewpoint no.28: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 71%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 14/15
Visual Impact Assessment Scale no: 7/15

This is a static, private viewpoint from the external balcony of Unit No.602 of 113-115, Macleay Street - Level 6 The view is over to neighbouring buildings of Potts point to the east and north, then west when the highest value views are observed behind the existing theatre building. These views include the Opera House and Harbour Bridge, almost in their entirety, with North Sydney CBD and Kirribilli foreshore in the distance.

Views to the northwest, to the northern end of the CBD are partially impacted by the new development at the lower levels. Views to the harbour Bridge and Opera House remain unobstructed by the new proposal. Consideration must be given to the fact the affected elements are at 45 degrees to the main view.

The view loss, as a result of the new design proposal, would be considered of minor-to-moderate significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: High (with iconic elements)
View location: Primary living space – standing 1m behind the balcony balustrade.
Extent of impact: Minor-to-moderate.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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## Viewpoint no.29



29 w IMG_6730 A.jpg

**Viewpoint no.29: Existing site photo. Unit 602, 113-115 Macleay Street**

From standing position, 1m within balustrade, external deck area, eastern corner
RL 62.18m
Distance to site boundary: 33.443m
Distance to centre of subject site: 59.393m



29 w IMG_6730 C.jpg

**Photomontage of new proposal**

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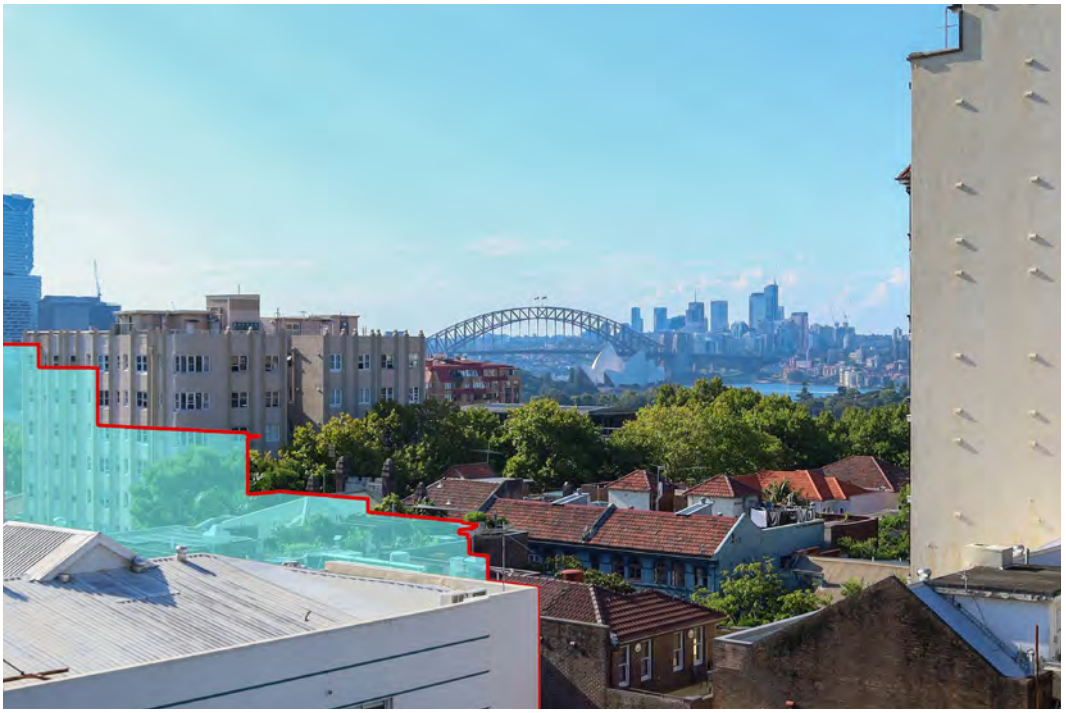

29 w IMG_6730 D.jpg

**Viewpoint no.29: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 31%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 14/15
Visual Impact Assessment Scale no: 5/15

This is a static, private viewpoint from the external balcony of Unit No.602 of 113-115, Macleay Street - Level 6 The view is over to neighbouring buildings of Potts point to the east and north, then west when the highest value views are observed behind the existing theatre building. These views include the Opera House and Harbour Bridge, almost in their entirety, with North Sydney CBD and Kirribilli foreshore in the distance.

Views to the northwest, to the northern end of the CBD are partially impacted by the new development at the lower levels. Views to the harbour Bridge and Opera House remain unobstructed by the new proposal. Consideration must be given to the fact the affected elements are at 45 degrees to the main view.

The view loss, as a result of the new design proposal, would be considered of minor significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: High (with iconic elements)
View location: Primary living space – standing 1m behind the balcony balustrade.
Extent of impact: Minor.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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# Viewpoint no.31



31 w IMG_6749 a.jpg

## Viewpoint no.31: Existing site photo. Unit 602, 113-115 Macleay Street

From standing position, 1m within internal glazing line –bedroom.
RL 62.26m
Distance to site boundary: 23.271m
Distance to centre of subject site: 49.569m



31 w IMG_6749 c.jpg

## Photomontage of new proposal

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31 w IMG_6749 d.jpg

**Viewpoint no.31: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 7%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 11/15
Visual Impact Assessment Scale no: 2/15

This is a static, private viewpoint from the bedroom of apartment No.602 of 113-115, Macleay Street - Level 6 The view is over to neighboring buildings of Potts point to the east and north then west when the highest value views are observed behind the existing theatre building. These views include approximately 50% of the Harbour Bridge and the entirety of the Sydney Opera House.

The view loss is to the buildings adjoining the subject site to the north..

The view loss, as a result of the new design proposal, would be considered of negligible significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: High (with partial iconic elements)
View location: Secondary living space – standing 1m behind main glazing line - bedroom.
Extent of impact: Negligible.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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## Viewpoint no.32



32 w IMG_6765 a.jpg

**Viewpoint no.32: Existing site photo. Unit 504, 113-115 Macleay Street**

From standing position, 1m within internal glazing line – living room.
RL 59.2m
Distance to site boundary:  26.574m
Distance to centre of subject site: 53.069m



32 w IMG_6765 c.jpg

**Photomontage of new proposal**

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32 w IMG_6765 d.jpg

**Viewpoint no.32: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 9%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 8/15
Visual Impact Assessment Scale no: 2/15

This is a static, private viewpoint from the living room of apartment No.504 of 113-115, Macleay Street - Level 5 The view is over to neighboring buildings of Potts point to the east and north then west when the highest value views are observed behind the existing theatre building, including North Sydney CBD and the northern portion of the Harbour Bridge.

The view loss is of parts of buildings adjacent to the subject site, to the north. No iconic views are impacted.

The view loss, as a result of the new design proposal, would be considered of negligible significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: low-to-medium
View location: Primary living space – standing 1m behind main glazing line - living room.
Extent of impact: Negligible.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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# Viewpoint no.33



33 w IMG_6772 a.jpg

## Viewpoint no.33: Existing site photo. Unit 504, 113-115 Macleay Street

From standing position, 1m within internal glazing line – living room.
RL 59.21m
Distance to site boundary: 23.759m
Distance to centre of subject site: 50.231m



33 w IMG_6772 c.jpg

## Photomontage of new proposal

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33 w IMG_6772 d.jpg

**Viewpoint no.33: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 7%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 6/15
Visual Impact Assessment Scale no: 2/15

This is a static, private viewpoint from the living room of apartment No.504 of 113-115, Macleay Street - Level 5
The view is over to neighboring buildings of Potts point to the east and north, including the foreshore of Kirribilli and Neutral Bay.

The view loss is of parts of buildings adjacent to the subject site, to the north. No iconic views are impacted.

The view loss, as a result of the new design proposal, would be considered of negligible significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: low-to-medium
View location: Primary living space – standing 1m behind main glazing line - living room.
Extent of impact: Negligible.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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# Viewpoint no.34



34 w IMG_6794 a.jpg

## Viewpoint no.34: Existing site photo. Unit 503, 113-115 Macleay Street

From standing position, 1m within internal glazing line – living room.
RL 59.2m
Distance to site boundary: 32.637m
Distance to centre of subject site: 58.522m



34 w IMG_6794 c.jpg

## Photomontage of new proposal

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34 w IMG_6794 d.jpg

**Viewpoint no.34: Visual Impact of new proposal, indicated through cyan overlay.**

Visual impact – portion of building visible in view – 8%
Visual impact ratio of view loss to sky view loss in visible portion. 100%: 0%
Existing Visual Quality Scale no: 12/15
Visual Impact Assessment Scale no: 3/15

This is a static, private viewpoint from the external balcony of Unit No.503 of 113-115, Macleay Street - Level 5 The view is over to neighbouring buildings of Potts point to the east and north, then west when the highest value views are observed behind the existing theatre building. These views include the Opera House and Harbour Bridge, almost in their entirety, with North Sydney CBD and Kirribilli foreshore in the distance.

The view loss is of a small portion of the apartment building to the northwest of trhe subject site and to some of the mature tree to the north of tie site.

The view loss, as a result of the new design proposal, would be considered of negligible significance under the assessment guidelines of the Tenacity Consulting v Warringah Council [2004] NSWLEC 140 case. It also respects the DCP guidelines contained within the City of Sydney Council DCP, 2012.

The neighbouring Council has a similar approach to view sharing: Woollahara Council DCP, 2015, Section B3.5.3: Public and Private Views. This states:
'View sharing concerns the equitable distribution of views between properties. The view sharing controls in this DCP seek to strike a balance between accommodating new development while providing, where practical, reasonable access to views from surrounding properties. Development should be designed to reflect the view sharing principles in Tenacity Consulting v Warringah Council [2004] NSWLEC 140.'
In this instance, the design maintains reasonable access to the existing views.

Tenacity Assessment Summary:
Value of view: High (with partial iconic elements)
View location: Primary living space – standing 1m behind main glazing line - living room.
Extent of impact: Negligible.
Reasonableness of proposal: Acceptable within the context of the relevant planning instruments – see the Statement of Environmental Effects that accompanies this application.

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## 4. SUMMARY ASSESSMENT.

This Visual Impact Assessment from Urbaine Architectural seeks to provide an objective approach to the likely visual impact and potential view loss from neighbours, surrounding the site of a new proposed development at Nos.28-20 Orwell Street, Potts Point. The view loss assessment is in relation to the adjoining residential properties on southern side of the subject site and, specifically the apartment buildings at Nos.5 to 15 Orwell Street and 113 to 115, Macleay Street, forming the basis of this report.
In reviewing the information to be to supplied to Sydney City Council, on behalf of the landowner and development, there are a number of issues to address, in terms of visual impact and the design's response to the City of Cydney Council DCP, 2012.

Firstly, it is important to acknowledge the extent of visual impact and view loss incurred as a result of the existing theatre building. Alongside this, the architectural and material quality of the existing building can also be considered in the overall assessment, when viewed alongside the new proposed additions. Significantly, the City of Sydney Council DCP, 2012 also contains a series of guidelines as to the architectural quality of any proposal:
1 To ensure that the built form is compatible with the streetscape and the desired future character of the area
2 To ensure that development is of high visual quality and enhances the street.
3 To maintain the evolution of residential building styles through the introduction of well-designed contemporary buildings.
4 To ensure that roof forms are consistent with the existing predominant roof forms in the street and minimise impacts to neighbouring properties.

The design concept proposal at Nos. 28 to 30, Orwell Street provides a sensitive architectural solution to the brief requirements, the site and the overall architectural context of the area.

In conclusion, the new proposal represents a minor variation to the existing visual impact and view loss to neighbouring residential properties along Orwell Street and Macleay Street. The highest value views are middle and distant views to the north west, north and north east, namely to the Sydney and North Sydney CBDs, the harbour, harbour bridge Opera House, lower reaches of the Lower North Shore, and Elizabeth Bay and Garden Island. When observed in the context of the density and variety of neighbouring buildings and the existing landscape, the additional impact can be considered relatively minor in most instances. The building additions are higher than the existing buildings and the resultant increase in view loss is small as a quantifiable percentage figure, since the proposed development sits within the existing building perimeter.

When assessed alongside the Tenacity principles, it is my opinion that the design, whilst being compliant with Council's statutory requirements, could not be designed in a 'more skilful manner' to reduce any additional view loss and that the small increase in visual impact can be considered acceptable in this instance, being in a very high density, urban environment.

## 5. APPENDICES.

- 5.1 APPENDIX A: Photomontages and view loss assessment images of the Proposed Development from 18 local viewpoints + verification diagrams.
- 5.3 APPENDIX B: Methodology article – Planning Australia, by Urbaine Architecture.
- 5.4 APPENDIX C: Land and Environment Court guidelines for photomontages.

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## APPENDIX B:

Land and Environment Court: Guidelines for Photomontages

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**LAND AND ENVIRONMENT COURT**

## Use of photomontages

The following requirements for photomontages proposed to be relied on as or as part of expert evidence in Class 1 appeals will apply for proceedings commenced on or after 1 October 2013. The following directions will apply to photomontages from that date:
Requirements for photomontages

1. Any photomontage proposed to be relied on in an expert report or as demonstrating an expert opinion as an accurate depiction of some intended future change to the present physical position concerning an identified location is to be accompanied by:
Existing Photograph.
a) A photograph showing the current, unchanged view of the location depicted in the photomontage from the same viewing point as that of the photomontage (the existing photograph);
b) A copy of the existing photograph with the wire frame lines depicted so as to demonstrate the data from which the photomontage has been constructed. The wire frame overlay represents the existing surveyed elements which correspond with the same elements in the existing photograph; and
c) A 2D plan showing the location of the camera and target point that corresponds to the same location the existing photograph was taken.
d) Confirmation that accurate 2D/3D survey data has been used to prepare the Photomontages. This is to include confirmation that survey data was used:
i. for depiction of existing buildings or existing elements as shown in the wire frame; and
ii. to establish an accurate camera location and RL of the camera.

2. Any expert statement or other document demonstrating an expert opinion that proposes to rely on a photomontage is to include details of:
a) The name and qualifications of the surveyor who prepared the survey information from which the underlying data for the wire frame from which the photomontage was derived was obtained; and
b) The camera type and field of view of the lens used for the purpose of the photograph in (1) (a) from which the photomontage has been derived.

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## APPENDIX C:

Aspinall CV and Expert Witness experience.
Methodology article – Planning Australia, by Urbaine Architecture

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**JOHN ASPINALL Principal, URBAINE Architectural.**

Registered Architect RIBA BA(Hons) BArch(Hons) Liverpool University, UK.

24 years' architectural experience in London and Sydney.
Halpin Stow Partnership, London, SW1
John Andrews International, Sydney
Cox and Partners, Sydney
Seidler and associates
NBRS Architects, Milsons Point
Urbaine Pty Ltd (current)

**Design Competitions:**

UK 1990 – Final 6. RIBA 'housing in a hostile environment'. Exhibited at the Royal Academy, London
UK Design Council – innovation development scheme finalist – various products, 1990.
Winner: International Design Competition: Sydney Town Hall, 2000
Finalist: Boy Charlton Swimming pool Competition, Sydney, 2001
Finalist: Coney Island Redevelopment Competition, NY 2003

**Design Tutor: UTS, Sydney, 1997 – 2002**

This role involved tutoring students within years 1 to 3 of the BA Architecture course. Specifically, I developed programs and tasks to break down the conventional problem-solving thinking, instilled through the secondary education system. Weekly briefs would seek to challenge their preconceived ideas and encourage a return to design thinking, based on First Principles.

**Design Tutor: UNSW, Sydney 2002 – 2005**

This role involved tutoring students within years 4 to 6 of the BArch course. Major design projects would be undertaken during this time, lasting between 6 and 8 weeks. I was focused on encouraging rationality of design decision-making, rather than post-rationalisation, which is an ongoing difficulty in design justification.

**Current Position: URBAINE GROUP Pty Ltd**

Currently, Principal Architect of Urbaine - architectural design development and visualisation consultancy: 24 staff, with offices in: Sydney, Shanghai, Doha and Sarajevo.
Urbaine specialises in design development via interactive 3d modelling.
Urbaine's scale of work varies from city master planning to furniture and product design, while our client base consists of architects, Government bodies, developers, interior designers, planners, advertising agencies and video producers.
URBAINE encourages all clients to bring the 3D visualisaton facility into the design process sufficiently early to allow far more effective design development in a short time frame. This process is utilised extensively by many local and international companies, including Lend Lease, Multiplex, Hassell, PTW, Foster and Partners, City of Sydney, Landcom and several other Governmental bodies. URBAINE involves all members of the design team in assessing the impact of design decisions from the earliest stages of concept design. Because much of URBAINE's work is International, the 3D CAD model projects are rotated between the various offices, effectively allowing a 24hr cycle of operation during the design development process, for clients in any location.

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An ever-increasing proportion of URBAINE"S work is related to public consultation visualisations and assessments. As a result, there has also been an increase in the Land And Environment Court representations. Extensive experience in creating and validating photomontaged views of building and environmental proposals. Experience with 3D photmonages began in 1990 and has included work for many of the world's leading architectural practices and legal firms.

**Co-Founder Quicksmart Homes Pty Ltd. , 2007 - 2009**

Responsible for the design and construction of 360 student accommodation building at ANU Canberra, utilising standard shipping containers as the base modules.

**Design Principal and co-owner of Excalibur Modular Systems Pty Ltd: 2009 to present.**

High specification prefabricated building solutions, designed in Sydney and being produced in China.
Excalibur has developed a number of modular designs for instant delivery and deployment around the world. Currently working with the Cameroon Government providing social infrastructure for this rapidly developing country.
The modular accommodation represents a very low carbon footprint solution

**Expert Legal Witness, 2005 to present**

In Australia and the UK, for the Land and Environment Court. Expert witness for visual impact studies of new developments.
Currently consulting with many NSW Councils and large developers and planners, including City of Sydney, Lend Lease, Mirvac, Foster + Partners, Linklaters.
Author of several articles in 'Planning Australia' and 'Architecture Australia' relating to design development and to the assessment of visual impacts, specifically related to the accuracy of photomontaging.
Currently preparing a set of revised recommendations for the Land and Environment Court relating to the preparation and verification of photomontaged views for the purposes of assessing visual impact

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PROJECT:



ISSUE: 05/06/23

DWG NO: MINVIA_66

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## VISUAL IMPACT ASSESSMENTS: A REALITY CHECK. BY JOHN ASPINALL.



**Photomontaged views of new apartment building at Pyrmont: Urbaine**

Australia's rapid construction growth over the past 10 years has coincided with significant advances in the technology behind the delivery of built projects. In particular, BIM (Building Information Modelling). Virtual Reality and ever-faster methods of preparing CAD construction documentation.

Alongside these advances, sits a number of potential problems that need to be considered by all of those involved in the process of building procurement. Specifically, the ease with which CAD software creates the appearance of very credible drawn information, often without the thoroughness and deliberation afforded by architects, and others, in years past.

Nowhere is this more apparent than in the area of visual impact assessments, where a very accurate representation of a building project in context is the starting point for discussion on a project's suitability for a site. The consequences of any inaccuracies in this imagery are significant and far- reaching, with little opportunity to redress any errors once a development is approved.



**Photomontaged views of new Sydney Harbour wharves: Urbaine**

Urbaine Architecture has been involved in the preparation of visual impact studies over a 20 year period, in Australia and Internationally. Urbaine's Director, John Aspinall, has been at the forefront of developing methods of verifying the accuracy of visualisations, particularly in his role as an expert witness in Land and Environment Court cases.

In Urbaine's experience, a significant majority of visualisation material presented to court is inaccurate to the

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point of being invalid for any legal planning decisions. Equally concerning is the amount of time spent, by other consultants, analysing and responding to this base material, which again can be redundant in light of the frequent inaccuracies. The cost of planning consultant reports and legal advice far exceeds that of generating the imagery around which all the decisions are being made.

Over the last 10 years, advances in 3d modelling and digital photography have allowed many practitioners to claim levels of expertise that are based more on the performance of software than on a rigorous understanding of geometry, architecture and visual perspective. From a traditional architect's

training, prior to the introduction of CAD and 3d modelling, a good understanding of the principles of perspective, light, shadow and building articulation, were taught throughout the training of architects.

Statutory Authorities, and in particular the Land and Environment Court, have attempted to introduce a degree of compliance, but, as yet, this is more quantitative, than qualitative and is resulting in an outward appearance of accuracy verification, without any actual explanation being requested behind the creation of the work.

Currently, the Land and Environment Court specifies that any photomontages, relied on as part of expert evidence in Class 1 appeals, must show the existing surveyed elements, corresponding with the same elements in the photograph. Often, any surveyed elements can form such a small portion of a photograph that, even by overlaying the surveyed elements as a 3d model, any degree of accuracy is almost impossible to verify. For sites where there are no existing structures, which is frequent, this presents a far more challenging exercise. Below is one such example, highlighted in the Sydney Morning Herald, as an example of extreme inaccuracy of a visual impact assessment. Urbaine was engaged to assess the degree to which the images were incorrect – determined to be by a factor of almost 75%.



Domain The Sydney Morning Herald

Inaccurate images anger residents

February 21

Kelsey Munro

Picture imperfect ... the original interpretation of how the Lewisham Estates development will look.

CAN residents affected by big development proposals rely on developers' photo montages?

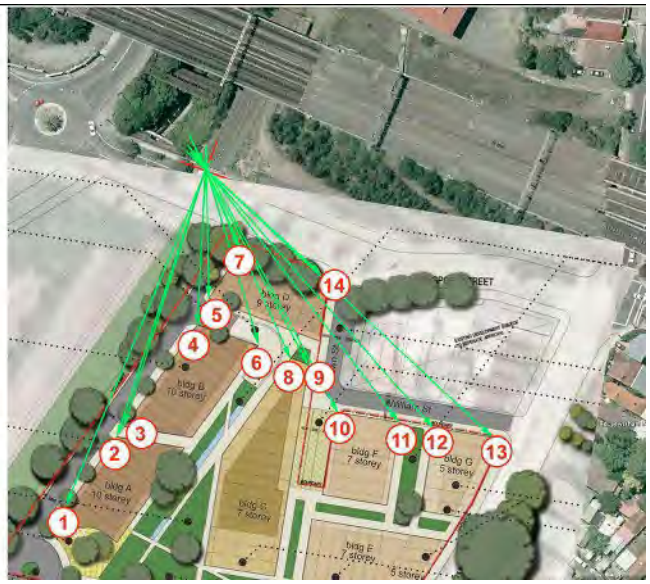
One inner west group thinks not, after inaccuracies were found in a series of digital photo montages which made the proposed Lewisham Estates development appear much smaller than it would if built.

The developer was sent back to the drawing board by the Department of Planning to redo the images that were publicly exhibited for the project after questions were raised over their accuracy.

The corrected interpretation of how the Lewisham Estates development will look.

The No Lewisham Towers residents' action group claims the original images were so misleading that the corrected ones should go on public exhibition before the Planning Assessment Commission makes its determination next week.

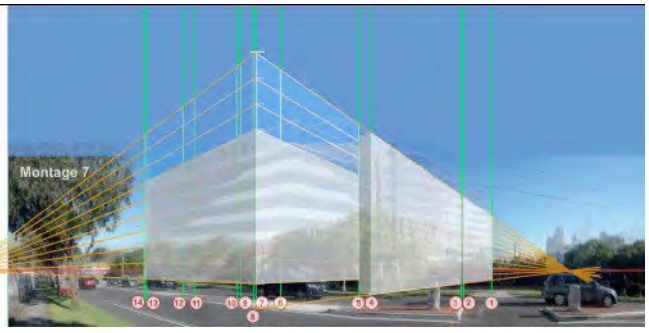
**SMH article re inaccurate visualisations**




**Key visual location points on site: Urbaine**




**Photomontage submitted by developer**




**Assessment of inaccuracy by Urbaine**

Urbaine has developed a number of methods for adding verification data to the 3d model of proposed buildings and hence to the final photomontages. These include the use of physical site poles, located at known positions and heights around a site, together with drones for accurate height and location verification and the use of landscaped elements within the 3d model to further add known points of references. Elements observed in a photograph can be used to align with the corresponding elements of the new building in plan. If 4 or more known positions can be aligned, as a minimum, there is a good opportunity to create a verifiable alignment.

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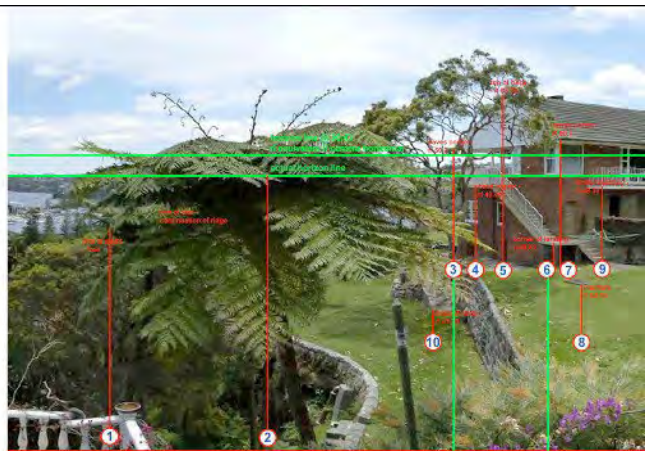
Every site presents different opportunities for verification and, often, Urbaine is required to assess montages from photographs taken by a third party. In these cases, a combination of assessing aerial photography, alongside a survey will allow reference points to be placed into the relevant 3d model prior to overlaying onto the photos for checking.

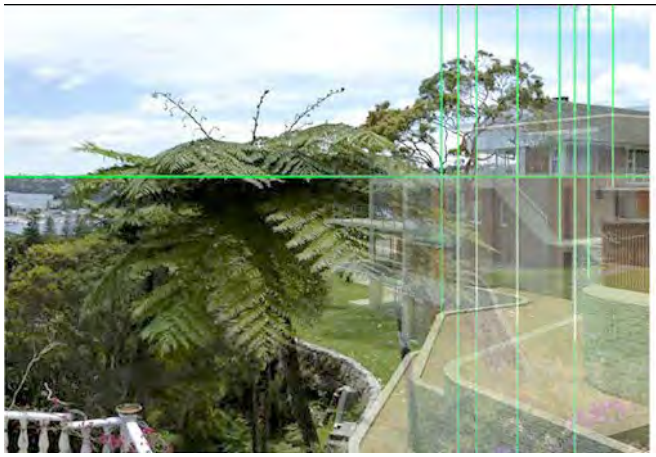
The following example clearly demonstrates this – a house montaged into a view, by others, using very few points of reference for verification. By analysing the existing photo alongside the survey, the existing site was able to be recreated with a series of reference elements built into the model. A fully rendered version of all the elements was then placed over the photo and the final model applied to this. As can be seen, the original montage and the final verified version are dramatically different and, in this case, to the disadvantage of the complainant.



**Photomontage submitted by developer**




**Key visual location points on site: Urbaine**



**Key points and 3d model overlaid onto existing photo**



**Final accurate photomontage: Urbaine**

Often, Urbaine's work is on very open sites, where contentious proposals for development will be relying on minimising the visual impact through mounding and landscaping. In these cases, accuracy is critical, particularly in relation to the heights above existing ground levels. In the following example, a business park was proposed on very large open site, adjoining several residential properties, with views through to the Blue Mountains, to the West of Sydney. Urbaine spent a day preparing the site, by placing a number of site poles, all of 3m in height. These were located on junctions of the various land lots, as observed in the survey information. These 3d poles were then replicated in the 3d CAD model in the same height and position as on the actual site. This permitted the buildings and the landscaping to be very accurately positioned into the photographs and, subsequently, for accurate sections to be taken through the 3d model to assess the actual percentage view loss of close and distant views.

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**Physical 3000mm site poles placed at lot corners**

**3d poles located in the 3d model and positioned on photo**





**Proposed buildings and landscape mounding applied**

**Proposed landscape applied – shown as semi-mature**



**Final verified photomontage by Urbaine**

Further examples, below, show similar methods being used to give an actual percentage figure to view loss, shown in red, in these images. This was for a digital advertising hoarding, adjoining a hotel. As can be seen, the view loss is far outweighed by the view gain, in addition to being based around a far more visually engaging sculpture. In terms of being used as a factual tool for legal representation and negotiation, these images are proving to be very useful and are accompanied by a series of diagrams explaining the methodology of their compilation and, hence verifying their accuracy.

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ISSUE: 05/06/23

DWG NO: MINVIA_70

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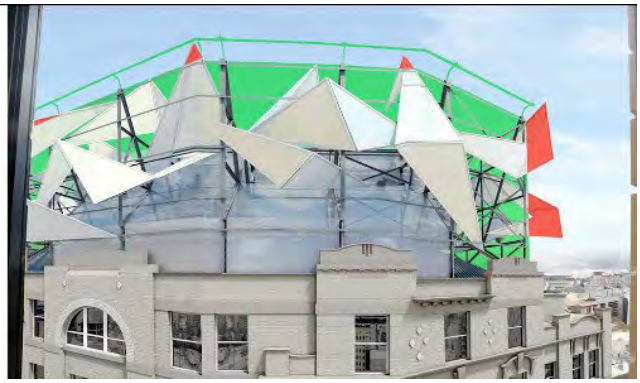
Photomontage of proposed building for digital billboard



Existing situation – view from adjoining hot

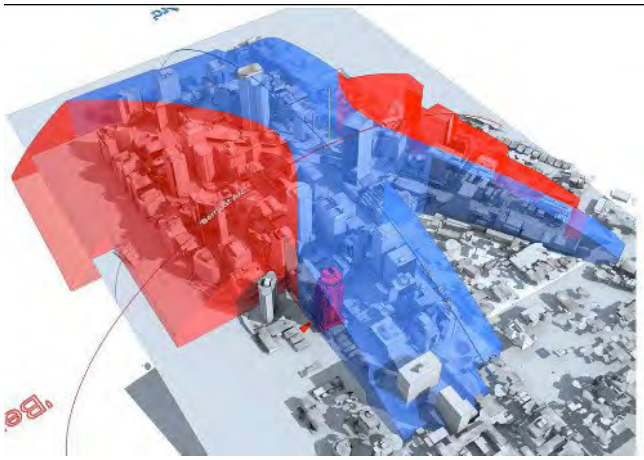


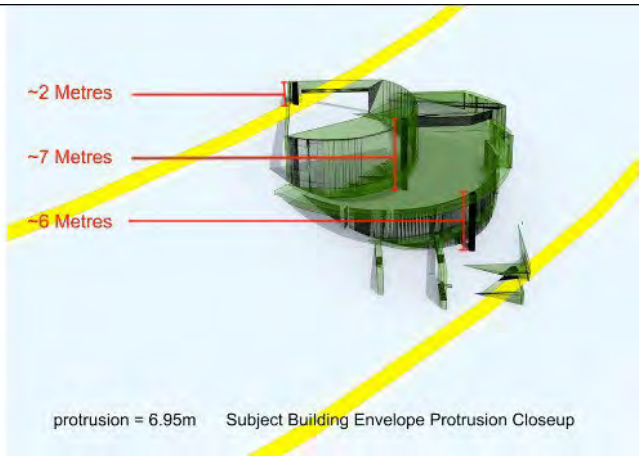
Photomontage of view from hotel



View loss – green = view gain / red = view loss

There are also several areas of assessment that can be used to resolve potential planning approval issues in the early stages of design. In the case below, the permissible building envelope in North Sydney CBD was modelled in 3d to determine if a building proposal would exceed the permitted height limit. Information relating to the amount of encroachment beyond the envelope allowed the architect to re-design the plant room profiles accordingly to avoid any breach.






3d model of planning height zones

Extent of protrusion of proposed design prior to re- design

Urbaine's experience in this field has place the company in a strong position to advise on the verification of imagery and also to assist in developing more robust methods of analysis of such imagery. As a minimum, Urbaine would suggest that anyone engaging the services of visualisation companies should request the following information, as a minimum requirement:

1. Height and plan location of camera to be verified and clearly shown on an aerial photo, along with the sun position at time of photography.
2. A minimum of 4 surveyed points identified in plan, at ground level relating to elements on the photograph and hence to the location of the superimposed building.

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3. A minimum of 4 surveyed height points to locate the imposed building in the vertical plane.
4. A series of images to be prepared to explain each photomontaged view, in line with the above stages.

This is an absolute minimum from which a client can determine the verifiability of a photomontaged image. From this point the images can be assessed by other consultants and used to prepare a legal case for planning approval.

.

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## APPENDIX D:

Site surveys

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ISSUE:
DWG NO: MINVIA_74
05/06/23

NOTE 12: LOT 54 IN DP 1049805 BETWEEN RL-0.6 TO RL-2.72 AND RL-12.7 TO RL-14.82

NOTE 13: PT LOT 52 ABOVE RL21.74

NOTE 14: SEE SHEET 13 FOR SECTIONS

**LEGEND**

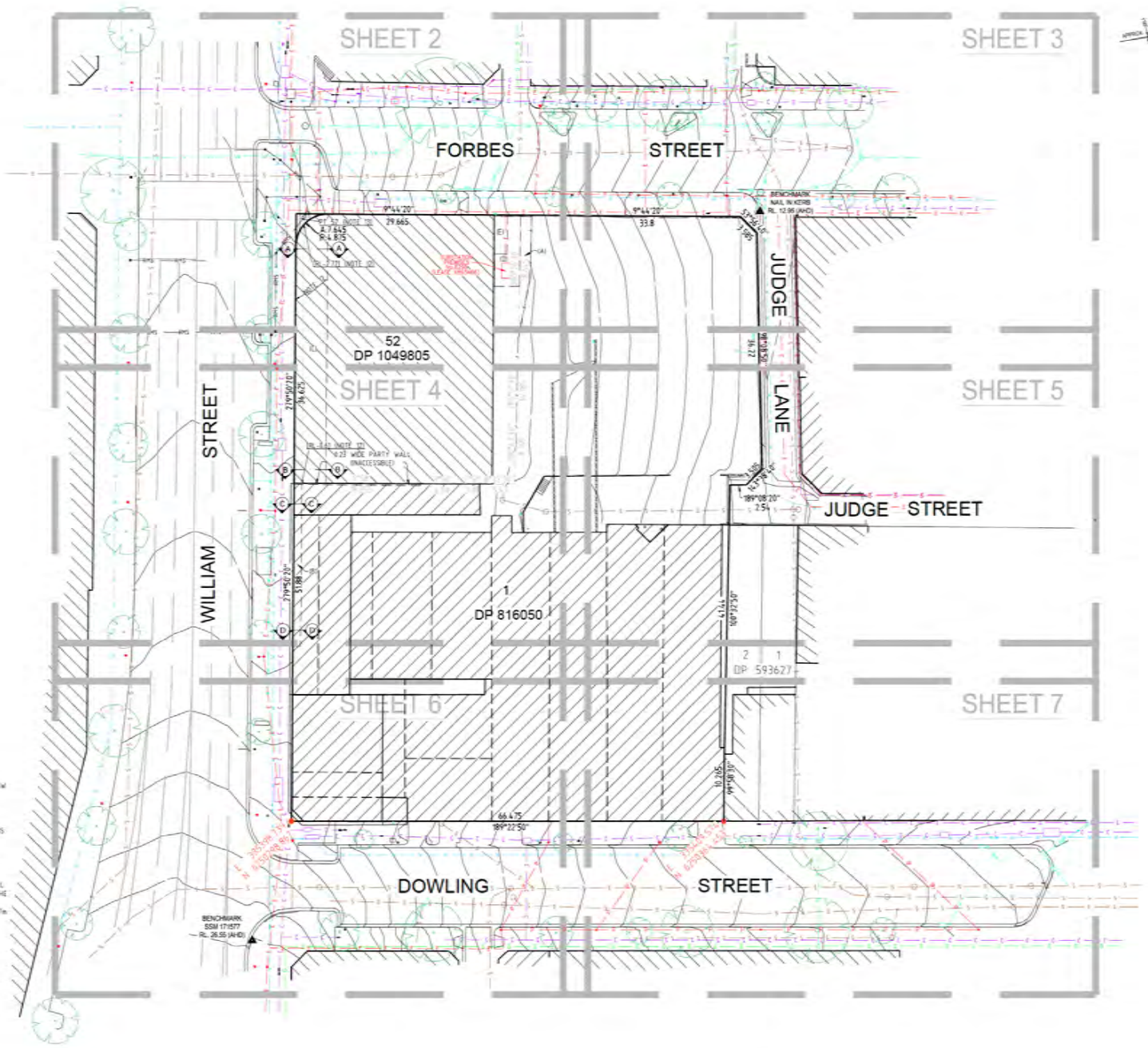
| | |
|---|---|
| BENCH MARK | ▲ |
| OPTUS PIT | OP |
| TELSTRA PILLAR | TP |
| COMMS PIT | COM |
| TELSTRA PIT | TEL |
| ELECTRIC LIGHT POLE | ELP |
| ELECTRICITY PIT | EPIT |
| ELECTRICITY BOX | EL |
| POWER POLE | PP |
| PIT WITH CONCRETE LID | CLID |
| PIT WITH METAL LID | MLID |
| TRAFFIC LIGHT | TL |
| STREET SIGN | SS |
| PARKING METER | PM |
| ROADS & MARITIME SERVICES | RMS |
| GRATED INLET PIT | GIP |
| SEWER INSPECTION POINT | SIP |
| SEWER MANHOLE | SMH |
| STOP VALVE | SV |
| HYDRANT | HYD |
| GAS VALVE | GAS |
| VEHICLE CROSSING | (VC) |
| PRAM CROSSING | (PC) |
| GAS (OBYD) | |
| COMMUNICATIONS (OBYD) | |
| WATER (OBYD) | |
| SEWER (OBYD) | |
| ROADS & MARITIME (OBYD) | |
| ELECTRICITY (UGROUND) (OBYD) | |
| ELECTRICITY (OVERHEAD) | |
| STORMWATER (OBYD) | |

**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 **PM 53290** R.L. **17.319** (A.H.D.) IN DOWLING STREET
4. CONTOUR INTERVAL **0.5 m**
5. CONTOURS ARE INDICATIVE ONLY. ONLY SPOT LEVELS SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION
6. KERB LEVELS ARE TO THE TOP OF KERB UNLESS SHOWN OTHERWISE
7. FLOOR LEVELS SHOWN ARE THRESHOLD LEVELS. NO INVESTIGATION OF INTERNAL FLOOR LEVELS HAS BEEN UNDERTAKEN
8. 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
9. W/AVT DENOTES TREE SPREAD OF 8m, TRUNK DIAMETER OF 0.4m & APPROX HEIGHT OF 7m
10. SHOWS APPROXIMATE POSITION OF ROAD LINEMARKING AND IS INDICATIVE ONLY
11. BEARINGS SHOWN ARE MGA (MAP GRID OF AUSTRALIA) ADD APPROX 1°00' FOR TRUE NORTH

**EASEMENTS**

(A) RIGHT OF CARRIAGEWAY VARIABLE WIDTH (D781774)
(B) EASEMENT FOR ROCK ANCHORS 1.2 WIDE (9597284) LIMITED IN STRATUM (DP 1072859)
(C) EASEMENT FOR ROCK ANCHORS 4.865 WIDE LIMITED IN STRATUM (9597284)
(D) EASEMENT FOR ELECTRICITY AND OTHER PURPOSES (K893466)
(E) RIGHT OF WAY (K839466)




DIAL BEFORE YOU DIG www.1100.com.au

GDA2020

0 6 12 18 24 30
SCALE 1:300 @ A1

| Revision | Date | Description | Reference |
|---|---|---|---|
| H | 05/06/2023 | | 00 |
| G | 04/05/2023 | | 00 |
| F | 06/03/2023 | | 00 |
| E | 03/03/2023 | | 00 |
| D | 08/02/2023 | | 00 |
| C | 14/10/22 | SECTIONS ADDED | 00.2 |
| B | 28/9/22 | LOT 52 NEW 1049805 ADDED | 00.1 |
| A | 20/08/20 | ELEVATIONS ADDED | 00.1 |

LTS COMPASS TOGETHER

THIS IS THE PLAN REFERRED TO IN MY LETTER DATED:

Registered Surveyor NSW

Client: WILLIAM STREET NOMINEE PTY LTD

Drawing title:
PLAN OF DETAIL AND LEVELS OVER LOT 1 IN DP 816050 AND LOT 52 IN DP 1049805, KNOWN AS No.166-194 WILLIAM STREET, WOOLLOOMOOLOO

| | |
|---|---|
| datum | AHD |
| site Area | 6398m² (CALC) |
| LGA | SYDNEY |
| reference number | 51095.001DT |
| scale | 1:300 @A1 |
| date of survey | 14/08/2020 |
| SHEET OF | 1 15 |

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Urbaine Design Group Pty Ltd | 192-194 The Corso, Manly NSW 2095

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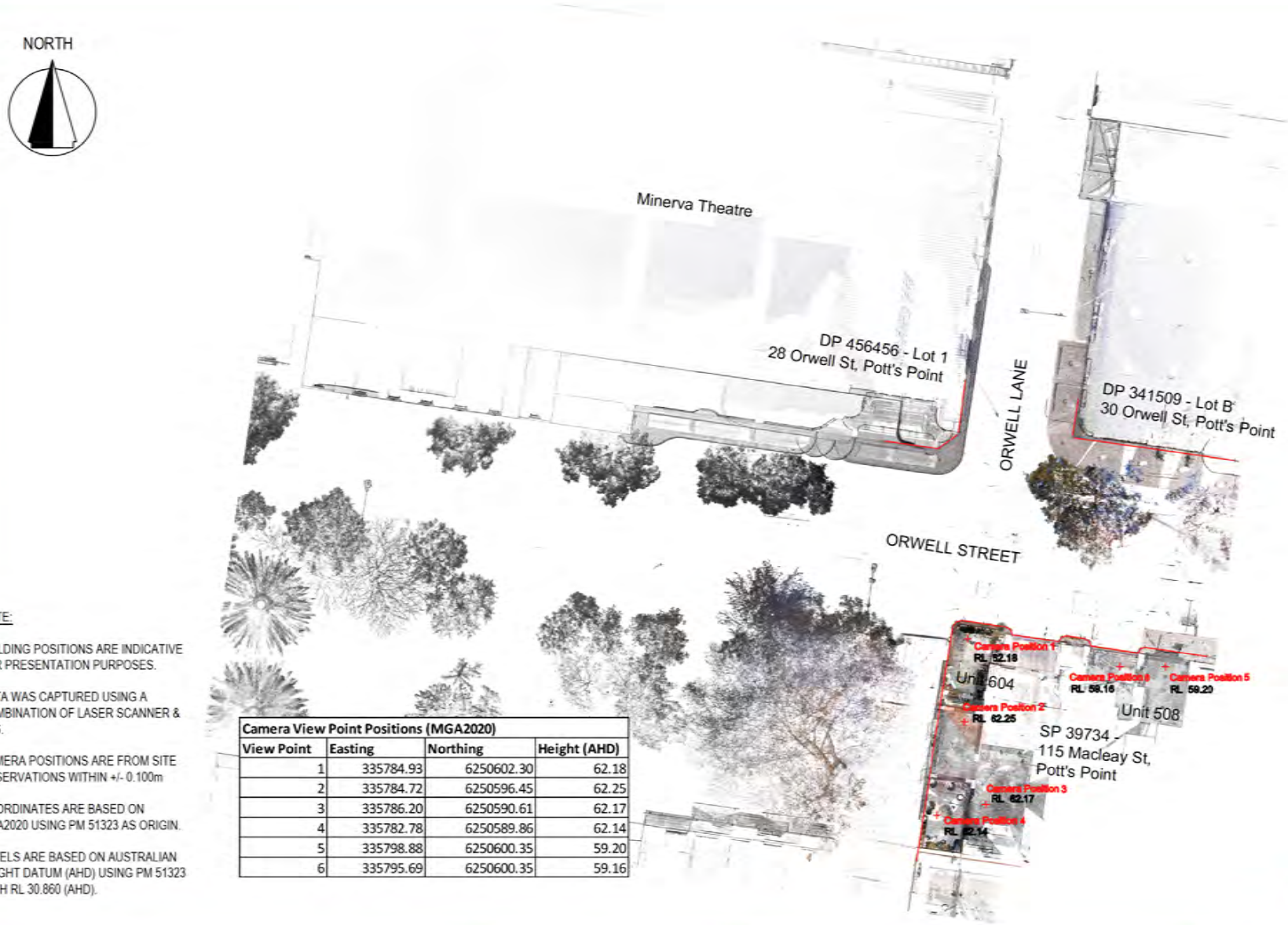


NOTE:

BUILDING POSITIONS ARE INDICATIVE FOR PRESENTATION PURPOSES.

DATA WAS CAPTURED USING A COMBINATION OF LASER SCANNER & TPS.

CAMERA POSITIONS ARE FROM SITE OBSERVATIONS WITHIN +/- 0.100m

COORDINATES ARE BASED ON MGA2020 USING PM 51323 AS ORIGIN.

LEVELS ARE BASED ON AUSTRALIAN HEIGHT DATUM (AHD) USING PM 51323 WITH RL 30.860 (AHD).

| Camera View Point Positions (MGA2020) | | | |
|---|---|---|---|
| View Point | Easting | Northing | Height (AHD) |
| 1 | 335784.93 | 6250602.30 | 62.18 |
| 2 | 335784.72 | 6250596.45 | 62.25 |
| 3 | 335786.20 | 6250590.61 | 62.17 |
| 4 | 335782.78 | 6250589.86 | 62.14 |
| 5 | 335798.88 | 6250600.35 | 59.20 |
| 6 | 335795.69 | 6250600.35 | 59.16 |

Dharmendra Singh
Registered Surveyor
No. 8592

TSS TOTAL SURVEYING SOLUTIONS
LANE COVE | CAMDEN | MANLY VALE | CENTRAL COAST

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SKETCH PLAN SHOWING
INDICATIVE CAMERA POSITIONS FOR -

| | | | |
|---|---|---|---|
| CLIENT: | URBAINE DESIGN GROUP | JOB No.: 220565 | LGA: City of Sydney |
| PROJECT: | MINERVA THEATRE - POTTS POINT | PLAN No.: 220565-1 | DATUM: AHD |
| ADDRESS: | 28 ORWELL STREET, POTTS POINT NSW 2011 | DATE: 12/07/2022 | SCALE: NTS |
| | | DRAWN: TP | CONT. INTERVAL: N/A |
| | | CHK: JS | SHEET 1 OF 1 |

DWG NO. MINVIA_75
05/06/23
46Q

urbaine DESIGN GROUP
Urbaine Design Group Pty Ltd. ABN 192 174 744 Suite 2, 74 The Corso, Manly NSW 2095




| MGA COORDINATES (MGA2020) | | | | |
|---|---|---|---|---|
| ID# | EASTING | NORTHING | CAMERA RL | LOCATION |
| 1 | 335812.97 | 6250598.56 | 62.21 | APARTMENT - 506 |
| 2 | 335809.09 | 6250599.56 | 62.18 | APARTMENT - 506 |
| 3 | 335801.90 | 6250600.56 | 62.26 | APARTMENT - 506 |
| 4 | 335806.39 | 6250599.17 | 59.20 | APARTMENT - 504 |
| 5 | 335801.89 | 6250600.55 | 59.21 | APARTMENT - 504 |
| 6 | 335811.93 | 6250598.47 | 59.20 | APARTMENT - 503 |

NORTH [APPROX.]

LEGEND

# TABLE IDENTIFIER

● SURVEYED POINT

NOTES:

THERE ARE 6 LOCATIONS IN TOTAL DEPICTED IN THIS VIEW ASSESSMENT FOR UNITS 506, 504, 503

ALL IMAGES ARE TAKEN FROM 1.6 METRES ABOVE THE GROUND/FLOOR LEVEL TO REFLECT AVERAGE HUMAN EYE-HEIGHT.

THE 2D SITE PLAN SHOWS THE VIEW LOCATION AND THE RL OF EACH CAMERA POSITION.

THE 2D SURVEY DATA THAT HAS BEEN USED TO PREPARE THE PHOTOMONTAGES HAS BEEN CERTIFIED BY REGISTERED LAND SURVEYOR GREG GIBSON (ID# SU001101) AS ACCURATE AND CONSISTENT

WITH THE MAP GRID OF AUSTRALIA 2020 (MGA) COORDINATES AND THE AUSTRALIAN HEIGHT DATUM (AHD).

NEARMAPS IMAGE UNDERLAID FOR REFERENCE PURPOSES ONLY

SIGNED

GREGORY IRETON GIBSON
SURVEYOR ID: SU001101
*SURVEYOR REGISTERED UNDER THE SURVEYING AND SPATIAL INFORMATION ACT, 2002 (NSW)*

| REV. | DATE | AMENDMENTS | INT. |
|---|---|---|---|
| A | 17.02.23 | ISSUED FOR INFORMATION | BTP |

PREPARED BY:

geosurv. with you from beginning to end

locating surveying 3Dscanning

www.geosurv.com.au 1300 554 675

PREPARED FOR:

CE MINERVA PTY LTD

PLAN OF:

CAMERA LOCATIONS PLAN
No.37 ORWELL STREET
28-30 MINERVA STREET
POTTS POINT
NSW, 2011
"MINERVA THEATRE"

ORIGINAL SIZE: A1 | SHEET: 1 of 1

| | | | |
|---|---|---|---|
| SCALE: | 1:75 | CO-ORD: | GDA 2020 |
| DATUM: | 35.065 (AHD71) | ORIG DATUM: | PM 58351 |
| SURVEY BY: | MC | DATE: | 10.02.23 |
| DRAWN BY: | BTP | DATE: | 17.02.23 |
| CHECKED BY: | TH | DATE: | 17.02.23 |
| APPROVED BY: | GIG | DATE: | 17.02.23 |

DRAWING #: 201208-DT-CAMERAS-01 [A]

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ISSUE: 05/06/23

DWG NO: MINVIA_76

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**Orwell St, Potts Point NSW 2011**
**Appendix A**




Camera positions: 113-115 Macleay Street

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Camera positions: 5-15 Orwell St




Panorama from proposed site, facing camera positions.

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DWG NO: MINVIAA_3

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## CAMERA 01



01 T IMG_8342 A.JPG

**Site image**



01 T IMG_8342 B.JPG

**Point cloud reference model overlay**

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DWG NO: MINVIAA_4

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01 T IMG_8342 C.JPG

**Photomontage of new proposal**



01 T IMG_8342 D.JPG

**Extent of development’s visual impact indicated in cyan with red outline**

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DWG NO: MINVIAA_5

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01 P IMG_8329-PANO.JPG

**24mm panorama with nested 50mm frame in red**

469

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DWG NO: MINVIAA_6

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## CAMERA 02



02 T IMG_8351 A.JPG

**Site image**



02 T IMG_8351 B.JPG

**Point cloud reference model overlay**

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02 T IMG_8351 C.JPG



**Extent of development's visual impact indicated in cyan with red outline**

02 T IMG_8351 D.JPG

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DWG NO: MINVIAA_8

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4179



02 P IMG_8357-PANO.JPG

**24mm panorama with nested reference 50mm frame in red**

A3 420

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ISSUE: 05/06/23

DWG NO: MINVIAA_9

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## CAMERA 03



03 T IMG_8359 A.JPG

**Site image**



03 T IMG_8359 B.JPG

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DWG NO: MINVIAA_10

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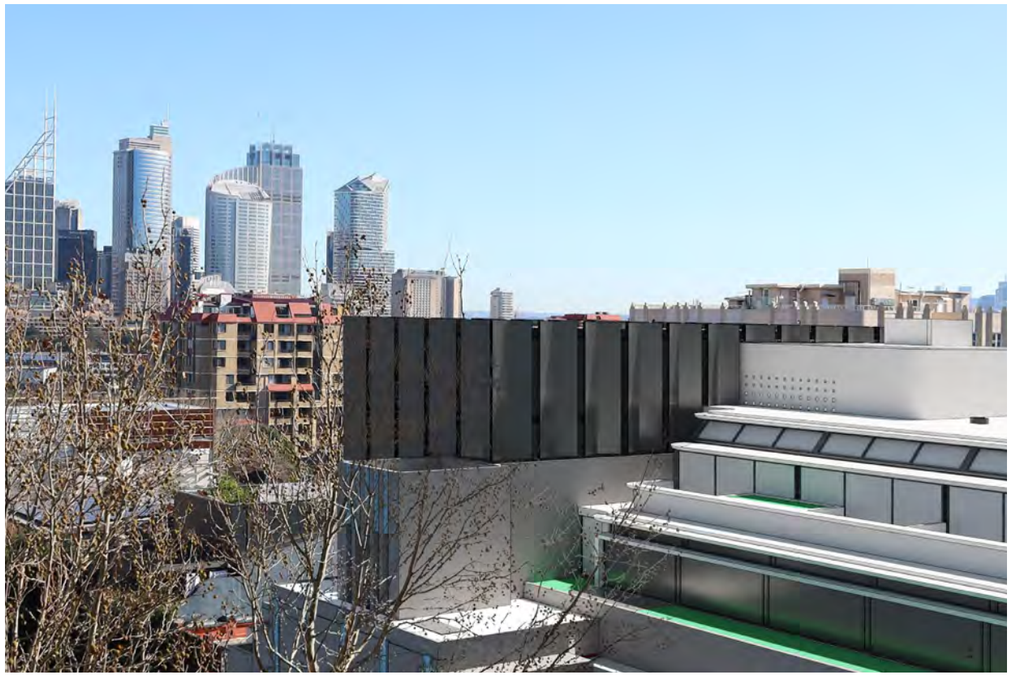
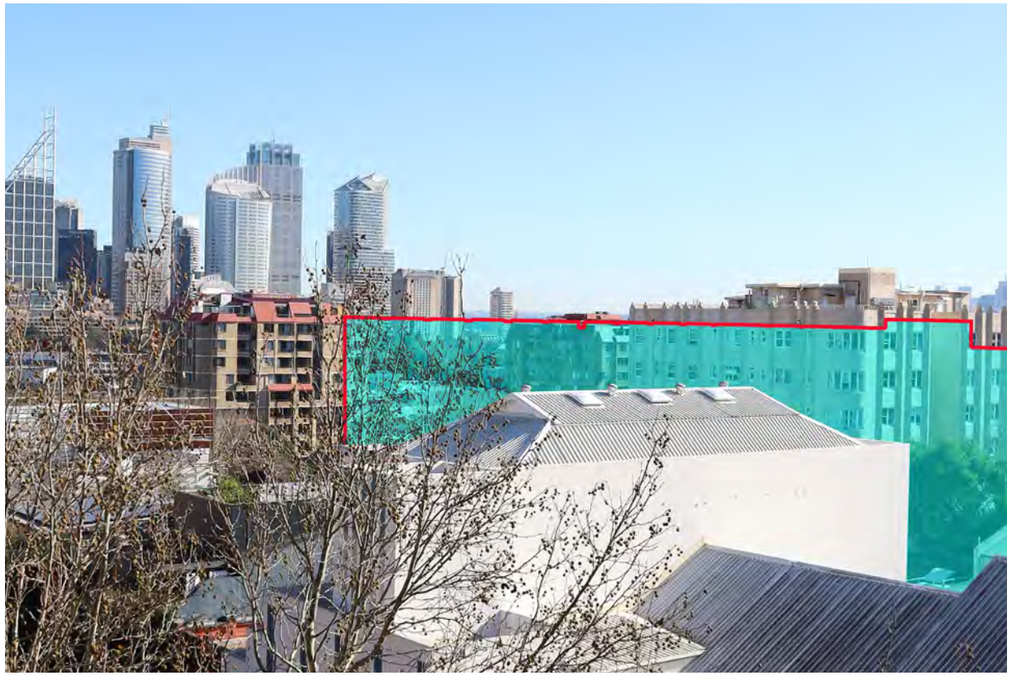


**Photomontage of new proposal**

03 T IMG_8359 C.JPG



**Extent of development’s visual impact indicated in cyan with red outline**

03 T IMG_8359 D.JPG

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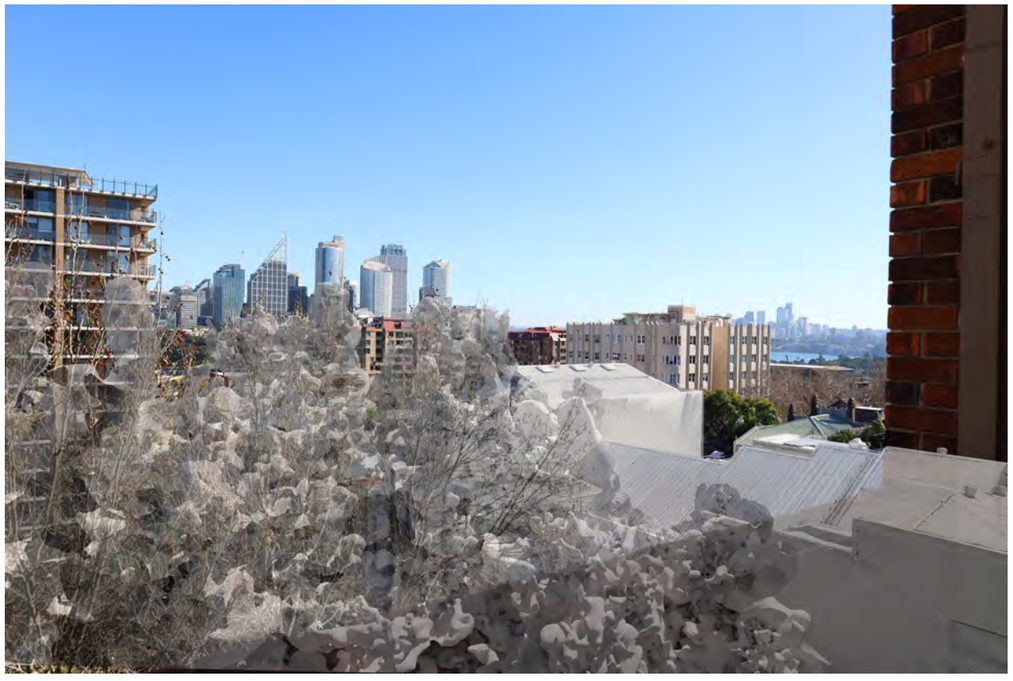
## CAMERA 03 WIDE



03 T IMG_8359 A.JPG

**Site image**



03 T IMG_8359 B.JPG

**Point cloud reference model overlay**

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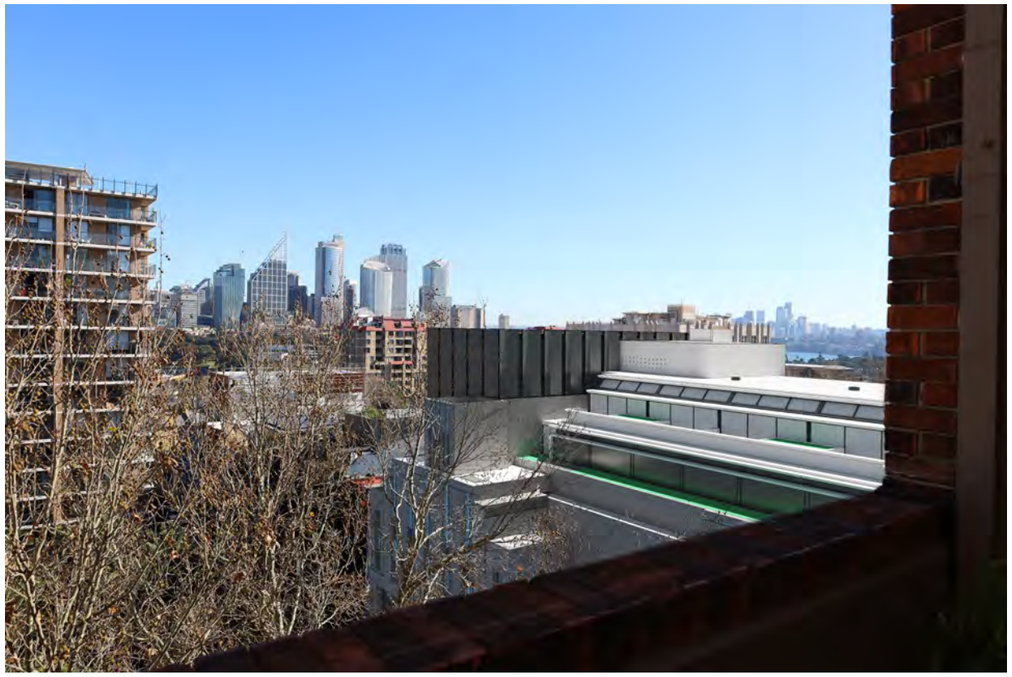

**Photomontage of new proposal**

03 T IMG_8359 C.JPG



**Extent of development’s visual impact indicated in cyan with red outline**

03 T IMG_8359 D.JPG

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DWG NO: MINVIAA_13

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03 P IMG_8364-PANO.JPG

**24mm panorama with nested reference 50mm frame in red**

425

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# CAMERA 06



06 T IMG_8414 A.JPG

## Site image



06 T IMG_8414 B.JPG

## Point cloud reference model overlay

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426



**Photomontage of new proposal**

06 T IMG_8414 C.JPG



**Extent of development's visual impact indicated in cyan with red outline**

06 T IMG_8414 D.JPG

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06 P IMG_8405-PANO.JPG

**24mm panorama with nested reference 50mm frame in red**

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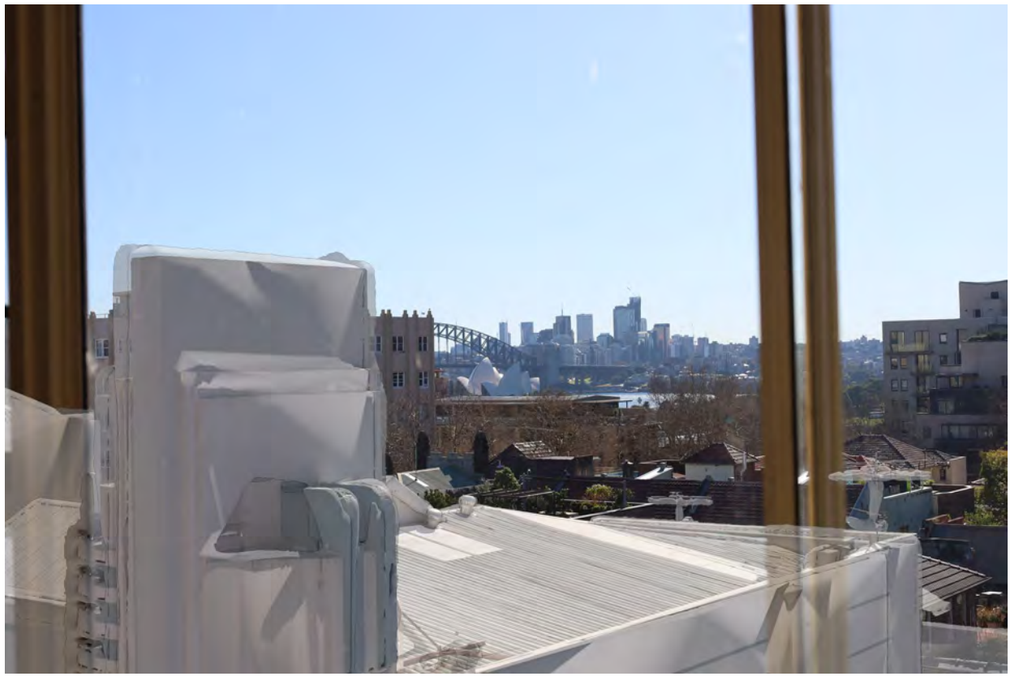
# CAMERA 07



07 T IMG_8427 A.JPG

## Site image



07 T IMG_8427 B.JPG

## Point cloud reference model overlay

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07 T IMG_8427 C.JPG

**Photomontage of new proposal**



07 T IMG_8427 D.JPG

**Extent of development’s visual impact indicated in cyan with red outline**

480

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07 P IMG_8430-PANO.JPG

**24mm panorama with nested reference frame in white and 50mm frame in red**

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# CAMERA 08



08 W IMG_6301 A.JPG

## Site image



08 W IMG_6301 B.JPG

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**Photomontage of new proposal**

08 W IMG_6301 C.JPG



**Extent of development’s visual impact indicated in cyan with red outline**

08 W IMG_6301 D.JPG

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485



08 P IMG_6302-PANO.JPG

**24mm panorama with nested reference frame in white and 50mm frame in red**

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# CAMERA 10



**Site image**

10 W IMG_6337 A.JPG



**Point cloud reference model overlay**

10 W IMG_6337 B.JPG

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**Photomontage of new proposal**

10 W IMG_6337 C.JPG



**Extent of development's visual impact indicated in cyan with red outline**

10 W IMG_6337 D.JPG

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10 P IMG_6344-PANO.JPG

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DWG NO: MINVIAA_26

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# CAMERA 13



**Site image**

13 W IMG_6374 A.JPG



**Point cloud reference model overlay**

13 W IMG_6374 B.JPG

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490



**Photomontage of new proposal**

13 W IMG_6374 C.JPG



**Extent of development's visual impact indicated in cyan with red outline**

13 W IMG_6374 D.JPG

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13 P IMG_6374-PANO.JPG

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# CAMERA 14



**Site image**

14 W IMG_6383 A.JPG



**Point cloud reference model overlay**

14 W IMG_6383 B.JPG

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**Photomontage of new proposal**

14 W IMG_6383 C.JPG



**Extent of development’s visual impact indicated in cyan with red outline**

14 W IMG_6383 D.JPG

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14 P IMG_6383-PANO.JPG

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## CAMERA 15



**Site image**

15 W IMG_6394 A.JPG



**Point cloud reference model overlay**

15 W IMG_6394 B.JPG

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15 W IMG_6394 C.JPG



**Extent of development's visual impact indicated in cyan with red outline**

15 W IMG_6394 D.JPG

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15 P IMG_6394-PANO.JPG

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DWG NO: MINVIAA_35

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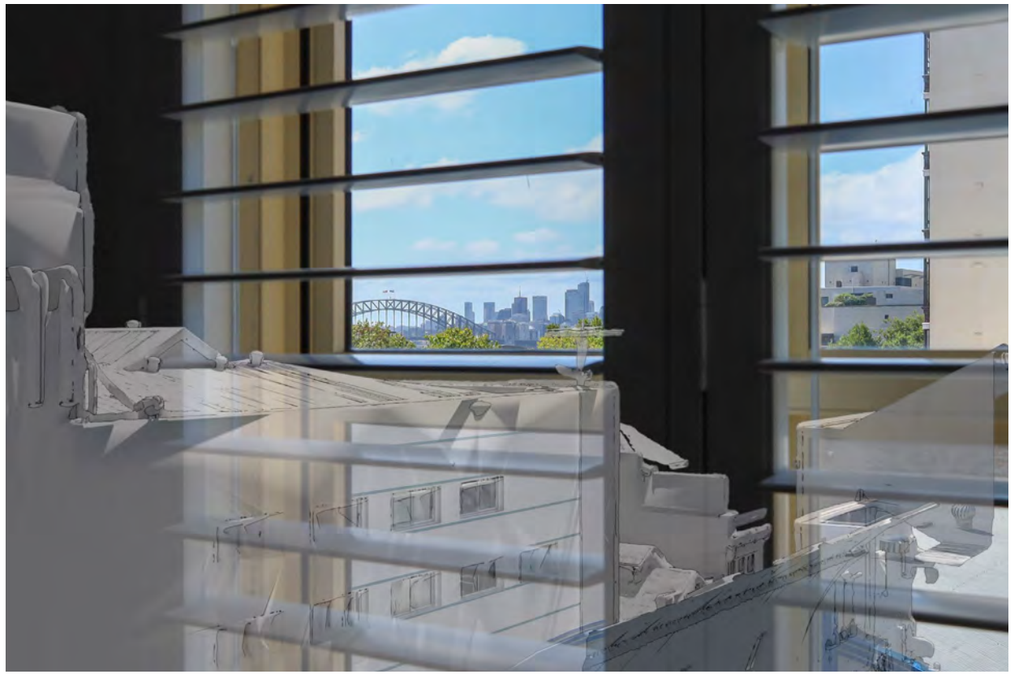
# CAMERA 16



## Site image

16 W IMG_6416 A.JPG



## Point cloud reference model overlay

16 W IMG_6416 B.JPG

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**Photomontage of new proposal**

16 W IMG_6416 C.JPG



**Extent of development's visual impact indicated in cyan with red outline**

16 W IMG_6416 D.JPG

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DWG NO: MINVIAA_37

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16 P IMG_6417-PANO.JPG

**24mm panorama with nested reference frame in white and 50mm frame in red**

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ISSUE: 05/06/23

DWG NO: MINVIAA_38

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## CAMERA 17



**Site image**

17 W IMG_6435.JPG



**Point cloud reference model overlay**

17 W IMG_6435 B.JPG

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DWG NO: MINVIAA_39

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17 W IMG_6435 C.JPG

**Photomontage of new proposal**



17 W IMG_6435 D.JPG

**Extent of development's visual impact indicated in cyan with red outline**

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17 P IMG_6440-PANO.JPG

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ISSUE: 05/06/23

DWG NO: MINVIAA_41

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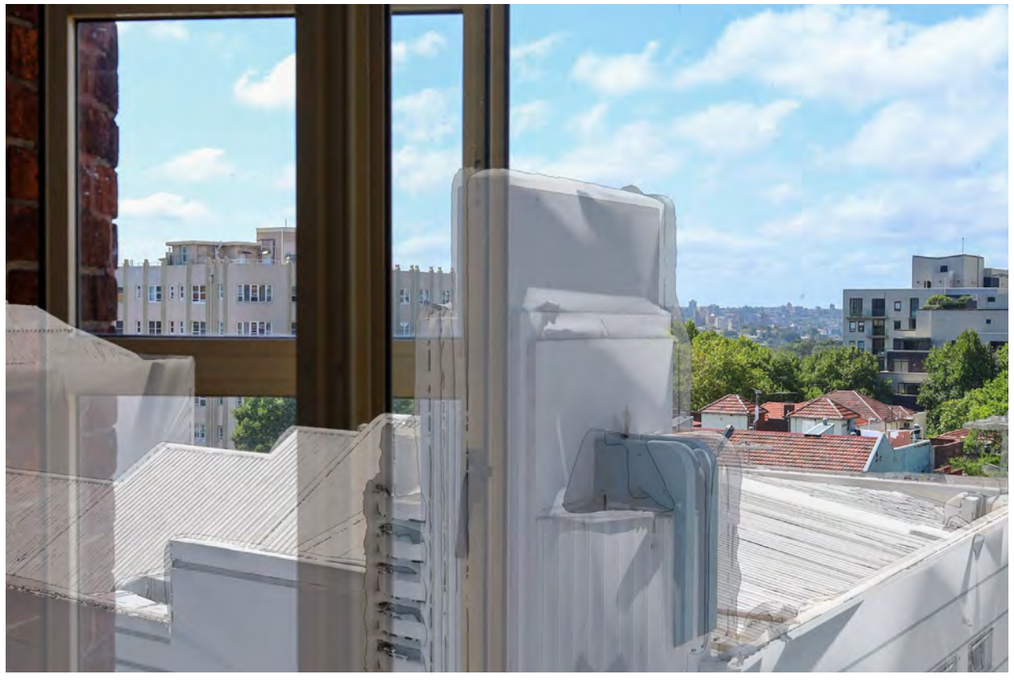
# CAMERA 18



**Site image**

18 W IMG_6451 A.JPG



**Point cloud reference model overlay**

18 W IMG_6451 B.JPG

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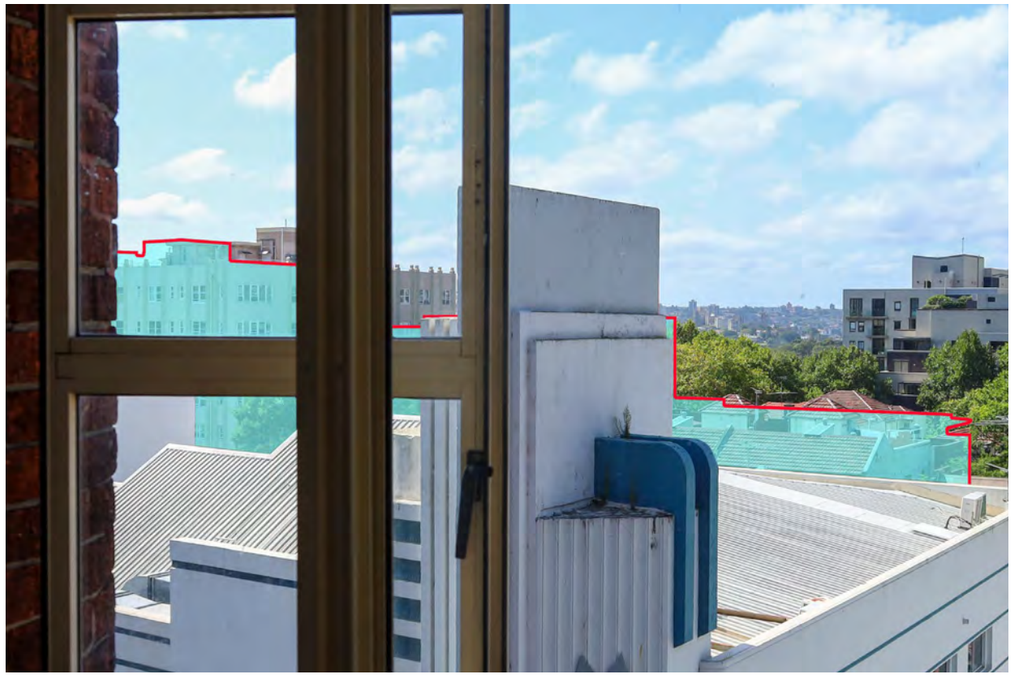
**Photomontage of new proposal**

18 W IMG_6451 C.JPG



**Extent of development's visual impact indicated in cyan with red outline**

18 W IMG_6451 D.JPG

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18 P IMG_6452-PANO.JPG

**24mm panorama with nested reference frame in white and 50mm frame in red**

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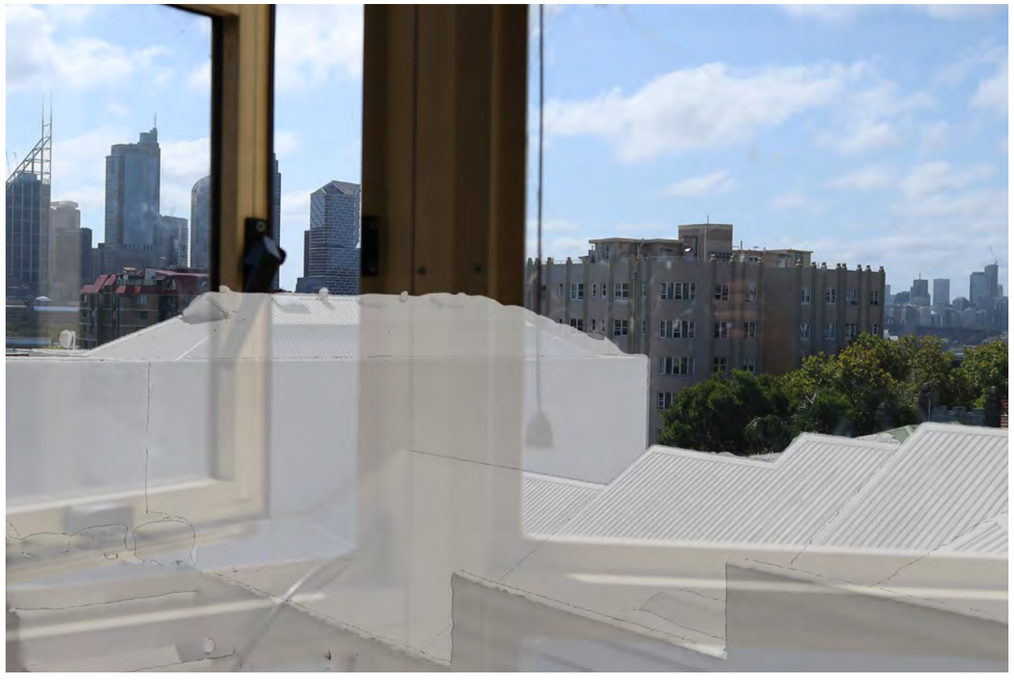
# CAMERA 19



**Site image**

19 W IMG_6484 A.JPG



**Point cloud reference model overlay**

19 W IMG_6484 B.JPG

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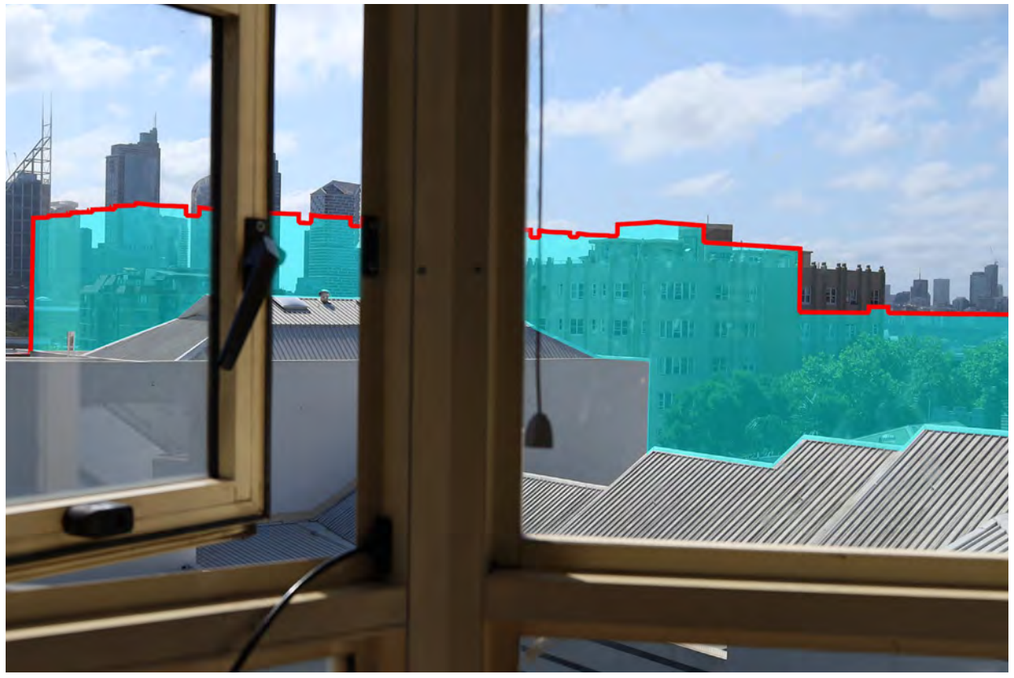
19 W IMG_6484 C.JPG

**Photomontage of new proposal**



19 W IMG_6484 D.JPG

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19 P IMG_6484-PANO.JPG

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## CAMERA 19A



**Site image**

19 W IMG_6479 A.JPG



**Point cloud reference model overlay**

19 W IMG_6479 B.JPG

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19 W IMG_6479 C.JPG

**Photomontage of new proposal**



19 W IMG_6479 D.JPG

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19 P IMG_6503-PANO.JPG

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# CAMERA 20



## Site image

20 W IMG_6525 A.JPG



## Point cloud reference model overlay

20 W IMG_6525 B.JPG

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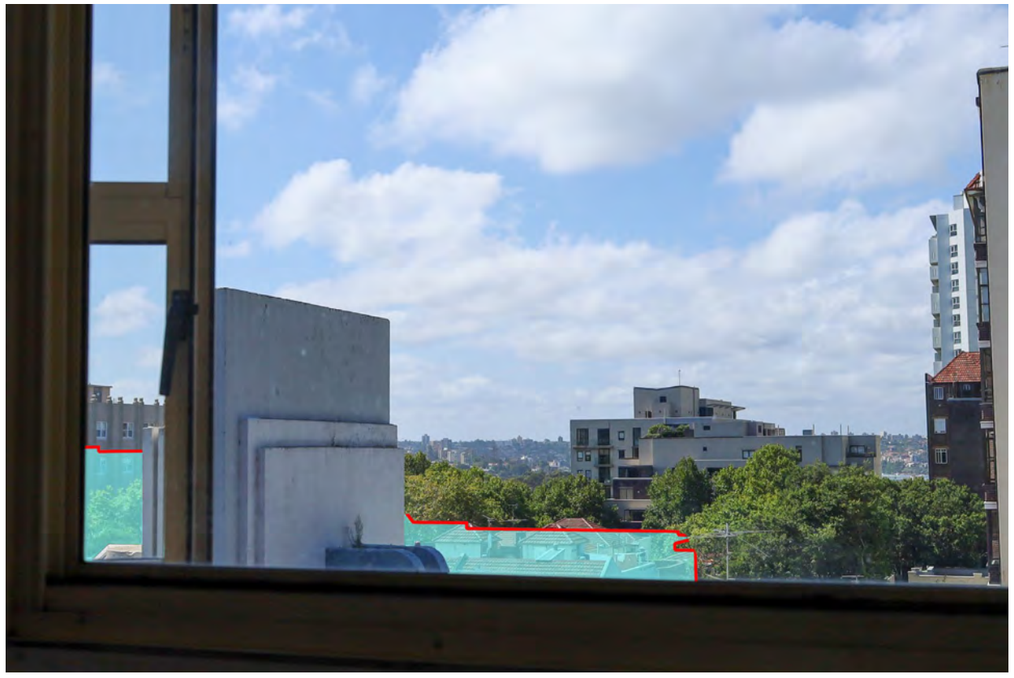
20 W IMG_6525 C.JPG

**Photomontage of new proposal**



20 W IMG_6525 D.JPG

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20 P IMG_6516-PANO.JPG

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# CAMERA 22



**Site image**

22 W IMG_6558 A.JPG



**Point cloud reference model overlay**

22 W IMG_6558 B.JPG

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**Photomontage of new proposal**

22 W IMG_6558 C.JPG



**Extent of development’s visual impact indicated in cyan with red outline**

22 W IMG_6558 D.JPG

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22 P IMG_6558-PANO.JPG

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# CAMERA 23



**Site image**

22A W IMG_6572 A.JPG



**Point cloud reference model overlay**

22A W IMG_6572 B.JPG

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22A W IMG_6572 C.JPG

**Photomontage of new proposal**



22A W IMG_6572 D.JPG

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DWG NO: MINVIAA_58

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22 P IMG_6575-PANO.JPG

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# CAMERA 26



**Site image**

26 W IMG_6669 A.JPG



**Point cloud reference model overlay**

26 W IMG_6669 B.JPG

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26 W IMG_6669 C.JPG

**Photomontage of new proposal**



26 W IMG_6669 D.JPG

**Extent of development’s visual impact indicated in cyan with red outline**

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**24mm panorama with nested reference frame in white and 50mm frame in red**

26 P IMG_6657-PANO.JPG

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# CAMERA 28



## Site image

28 W IMG_6713 A.JPG



## Point cloud reference model overlay

28 W IMG_6713 B.JPG

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DWG NO: MINVIAA_63

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28 W IMG_6713 C.JPG

**Photomontage of new proposal**



28 W IMG_6713 D.JPG

**Extent of development’s visual impact indicated in cyan with red outline**

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28 P IMG_6713-PANO.JPG

**24mm panorama with nested reference frame in white and 50mm frame in red**

926

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# CAMERA 29



**Site image**

29 W IMG_6730.JPG



**Point cloud reference model overlay**

29 W IMG_6730 B.JPG

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29 W IMG_6730 C.JPG

**Photomontage of new proposal**



29 W IMG_6730 D.JPG

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29 P IMG_6738-PANO.JPG

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DWG NO: MINVIAA_68

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# CAMERA 31



**Site image**

31 W IMG_6749 A.JPG



**Point cloud reference model overlay**

31 W IMG_6749 B.JPG

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31 W IMG_6749 C.JPG

**Photomontage of new proposal**



31 W IMG_6749 D.JPG

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31 P IMG_6751-PANO.JPG

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# CAMERA 32



## Site image

32 W IMG_6765 A.JPG



## Point cloud reference model overlay

32 W IMG_6765 B.JPG

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32 W IMG_6765 C.JPG

**Photomontage of new proposal**



32 W IMG_6765 D.JPG

**Extent of development's visual impact indicated in cyan with red outline**

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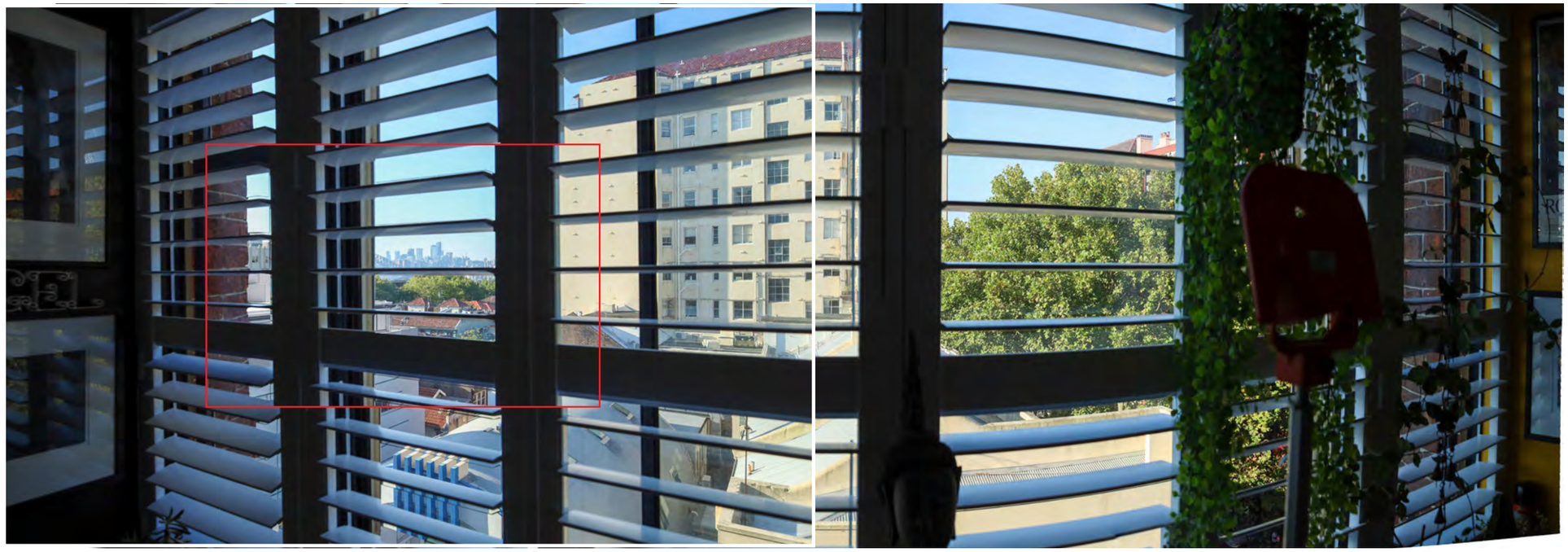

32 P IMG_6758-PANO.JPG

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## CAMERA 33



**Site image**

33 W IMG_6772 A.JPG



**Point cloud reference model overlay**

33 W IMG_6772 B.JPG

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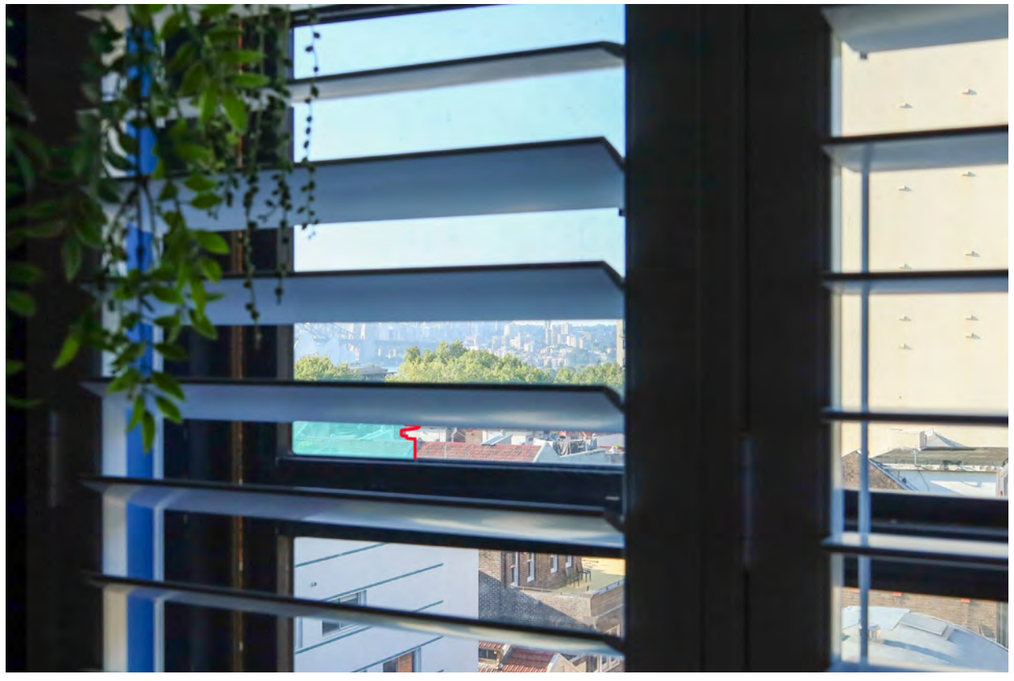
33 W IMG_6772 C.JPG

**Photomontage of new proposal**



33 W IMG_6772 D.JPG

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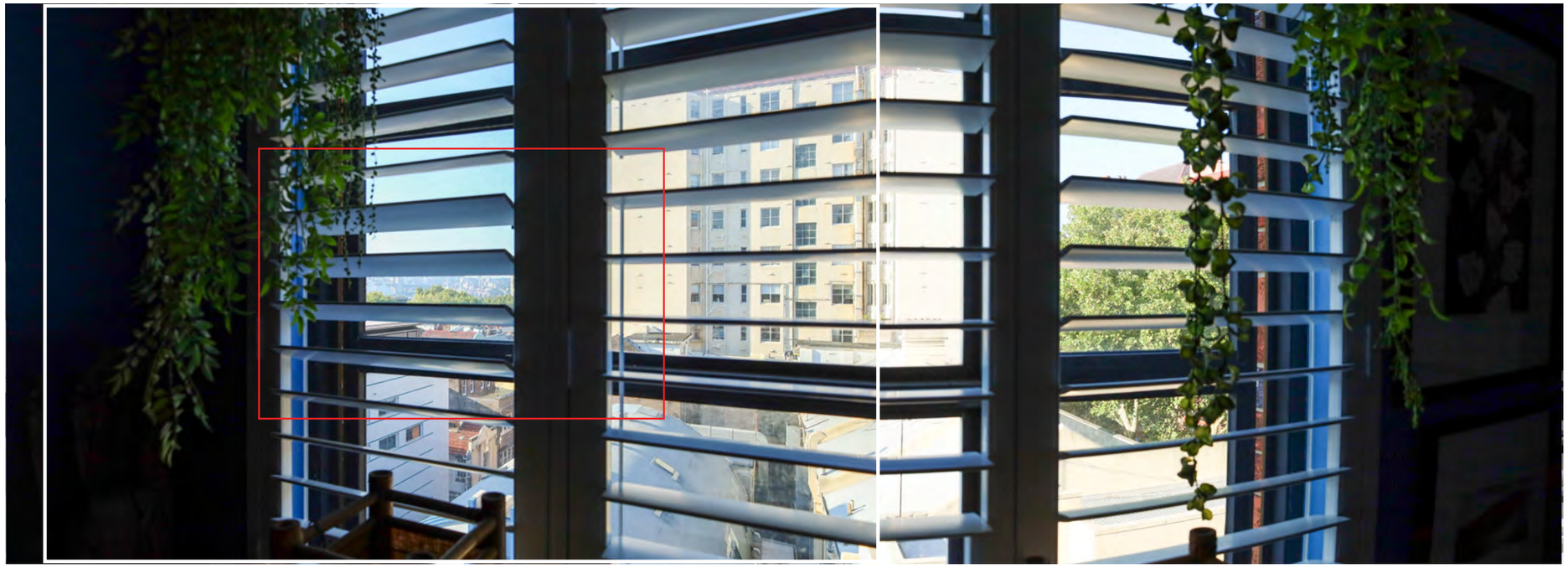

33 P IMG_6772-PANO.JPG

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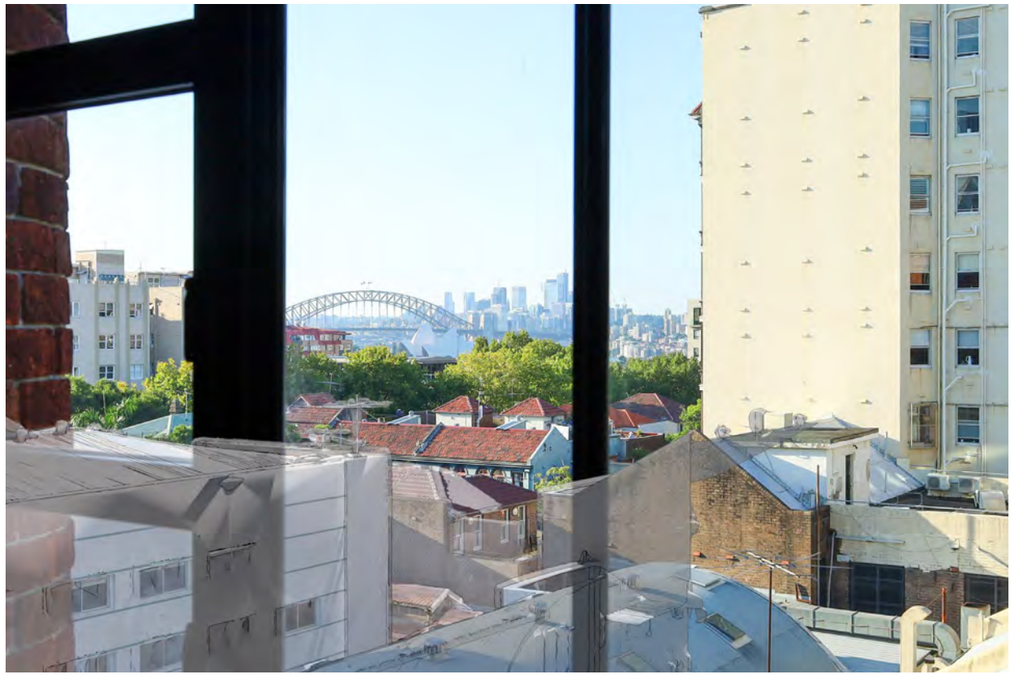
# CAMERA 34



## Site image

34 W IMG_6794 A.JPG



## Point cloud reference model overlay

34 W IMG_6794 B.JPG

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DWG NO: MINVIAA_78

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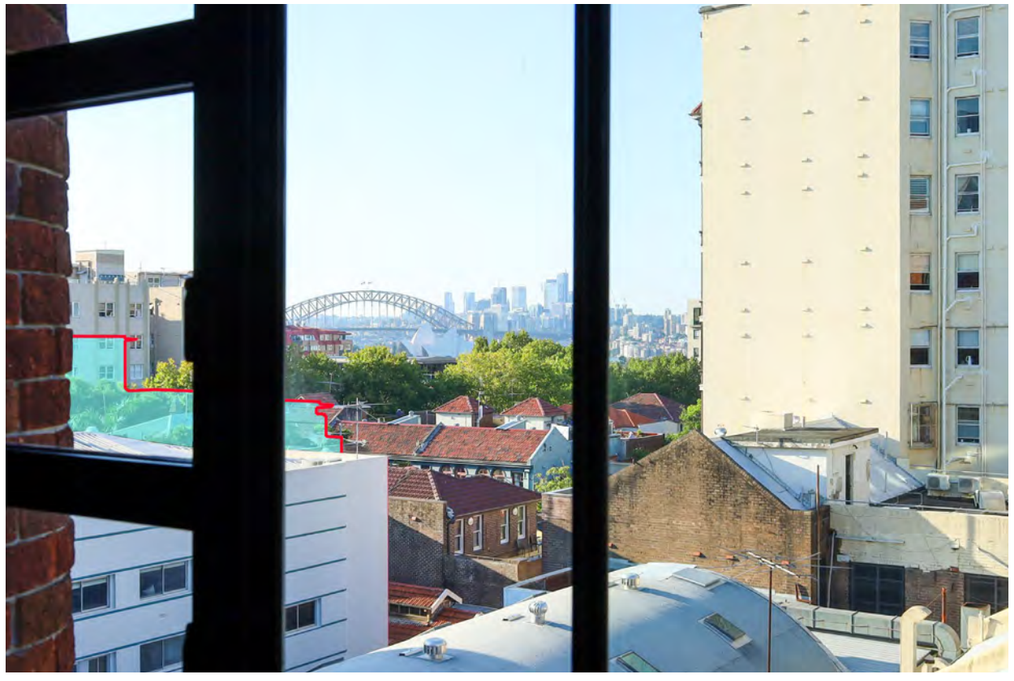
34 W IMG_6794 C.JPG

**Photomontage of new proposal**



34 W IMG_6794 D.JPG

**Extent of development's visual impact indicated in cyan with red outline**

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PROJECT:

ISSUE: 05/06/23

DWG NO: MINVIAA_79

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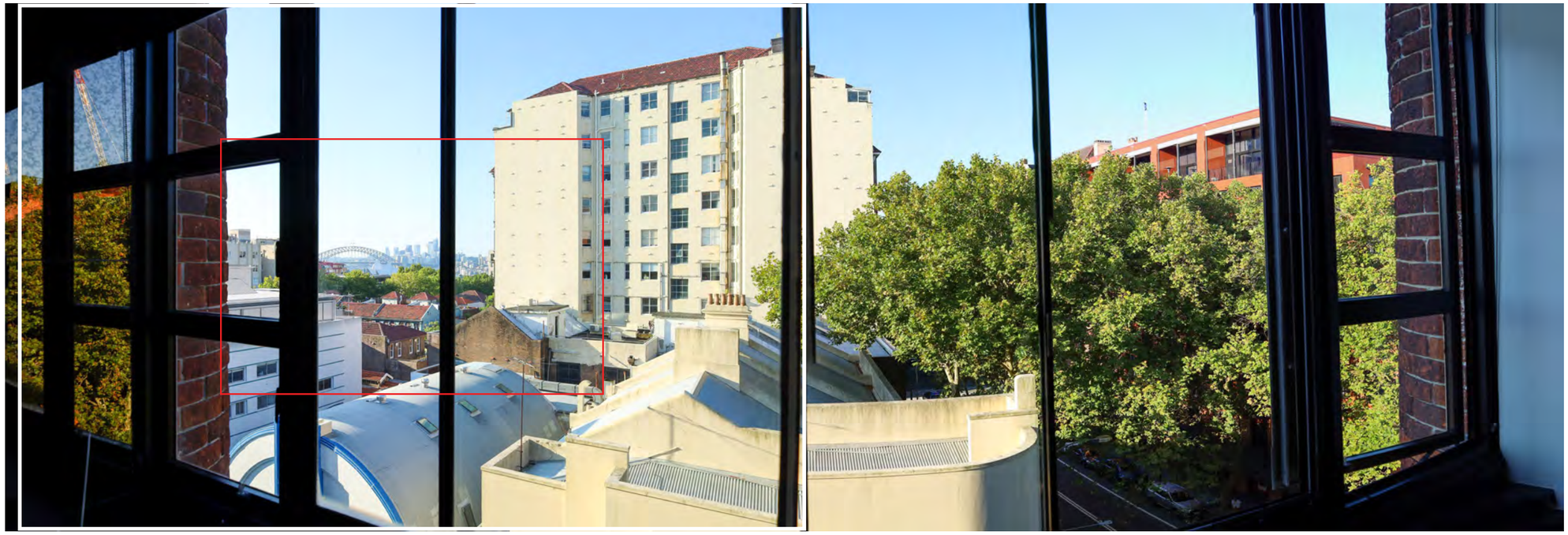

34 P IMG_6794-PANO.JPG

**24mm panorama with nested reference frame in white and 50mm frame in red**

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ISSUE: 05/06/23

DWG NO: MINVIAA_80

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# Attachment H

**Resolution of Local Planning Panel – 19 July 2023**

## 19 July 2023

## Item 3

### Development Application: 28-30 Orwell Street, Potts Point - D/2021/893

The Panel deferred consideration of Development Application No. D/2021/893 until a subsequent meeting of the Local Planning Panel to enable the applicant to submit additional information and amended plans which address the Panel's concerns regarding the inadequate clause 4.6 variation request – height of buildings and/or the potential to minimise the view impacts by reducing the height of part of the proposed development above the fly tower.

The question of reversibility is also required to be more effectively addressed. The privacy and amenity of residents to the north requires more consideration with suitable design amendments, as well as further design resolution in separating the cabaret area from the hotel use.

The issues of hotel room amenity, hotel and venue circulation, the lack of hotel back-of-house facilities and the inadequacy of theatre back-of-house needs to be resolved.

The operational constraints imposed on the venue due to the number of hotel rooms and the potential conflicts between discrete uses also require further consideration.

**Reasons for Decision**

The Panel expressed reservations regarding the application in its current form, however considered it reasonable to defer rather than refuse the application as there appears to be reasonable potential for additional information and design refinements required to enable finalisation of the assessment.

The motion was carried on the following show of hands –

Ayes (3) Steven Layman, Marcus Trimble and Amelia Thorpe

Noes (1) Brendan Randles*.

Carried.

D/2021/893

(*Note – Brendan Randles would refuse the proposal as it fails to resolve circulation and amenity issues identified by Design Advisory Panel (thereby failing to demonstrate design excellence), unnecessarily breaches height, irreversibly alters a significant heritage-listed purpose-built cultural building and fails to demonstrate the appropriateness and practicality of the uses proposed).

# Attachment I

## Applicant Response to the Resolution of Local Planning Panel

23 August 2023

General Manager
City of Sydney Council
Town Hall House, Gadigal Country
Level 2, 456 Kent Street, Sydney 2000

Attention: Matthew Girvan, Area Coordinator, Planning Assessments

**28-30 ORWELL STREET, POTTS POINT**
**DEVELOPMENT APPLICATION NO: D/2021/893**
**RESPONSE TO CITY OF SYDNEY REQUEST FOR INFORMATION**

Dear Matthew,

## Introduction

Central Element write in response to matters raised by Sydney Local Planning Panel at the Meeting on Wednesday 19 July 2013 in relation to Item A of the Agenda relating to DA No D/2021/893 for a mixed-use development including a live music entertainment facility and hotel at 28-30 Orwell Street, Potts Point.

The concerns raised by the Sydney Planning Panel were as follows:

> *"The Panel deferred consideration of Development Application No. D/2021/893 until a subsequent meeting of the Local Planning Panel to enable the applicant to submit additional information and amended plans which address the Panel's concerns regarding the inadequate clause 4.6 variation request – height of buildings and/or the potential to minimise the view impacts by reducing the height of part of the proposed development above the fly tower.*
>
> *The question of reversibility is also required to be more effectively addressed. The privacy and amenity of residents to the north requires more consideration with suitable design amendments, as well as further design resolution in separating the cabaret area from the hotel use.*
>
> *The issues of hotel room amenity, hotel and venue circulation, the lack of hotel back-of-house facilities and the inadequacy of theatre back-of-house needs to be resolved.*
>
> *The operational constraints imposed on the venue due to the number of hotel rooms and the potential conflicts between discrete uses also require further consideration".*

In responding to this resolution, it is important to recognise that, since the lodgement of the original development application in 2021, Central Element have made a significant of amendments to the proposal in response to address concerns raised by City of Sydney, public notification submissions, as well as the Technical Advisory Panel of Heritage NSW. The most notable of these changes were:

- A reduction of the proposed basement by two levels and reduction in the footprint of the basement, including deletion of a basement nightclub tenancy;
- Retention of the grand staircase within the foyer;
- Deletion of new openings within the flytower wall;
- A reduction in the north-eastern corner of the vertical addition to the main building to assist with view sharing; and
- Removal of 86.7m$^2$ of GFA from the auditorium, as a means of restoring the Level 1 heritage footprint.

The proposal is fully compliant with the development standard and building envelope controls contained in the Sydney LEP 2012 and Sydney DCP 2012, with the exception of a minor 2.92m variation to the height standard. The distribution of floor area from above the main auditorium to above the fly tower is a result of technical guidance from Council staff and advice from Council's Design Advisory Panel on a previous redevelopment proposal for this site in 2019, who were supportive of more of the thin, tower style design adopted for the current proposal, encouraging a maximum height variation of 3 metres, up to 25 metres as the optimal means of achieving the allowable floor space in a limited part of the site in the existing taller fly tower structure along the western boundary, whilst still minimising view loss impacts for surrounding properties and heritage integrity of the Minerva building.

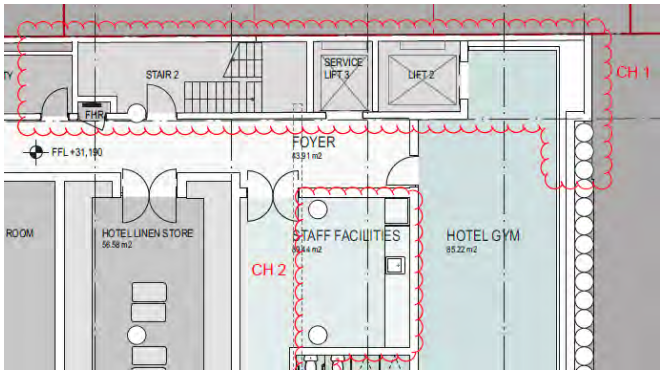
The following amended documents and additional information are enclosed to this letter:

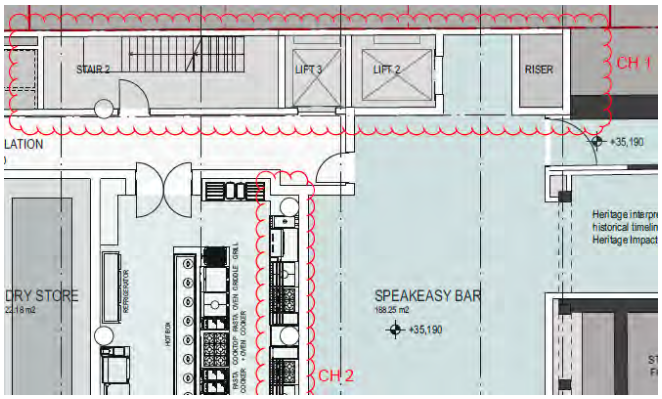
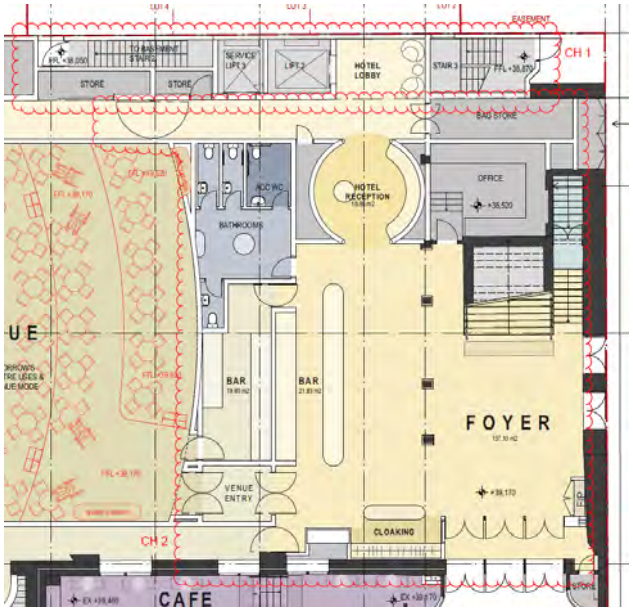
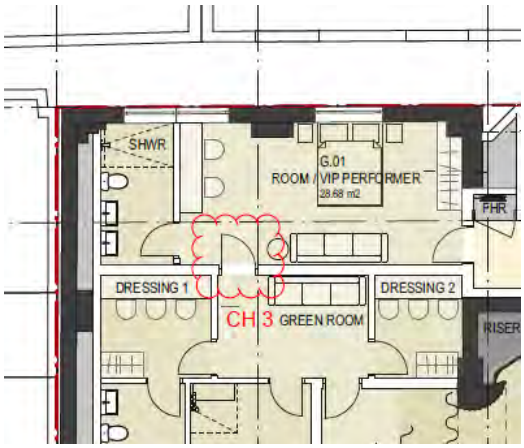
- Amended architectural drawing package including a section illustrating reversibility and privacy analysis prepared by TZG Architects.
- Amended Clause 4.6 Variation Request prepared by Planning Lab.
- Amended Plan of Management prepared by Central Element.
- Amended Operations Plans prepared by Central Element.
- Capital Investment Value (CIV) Valuation prepared by WT.

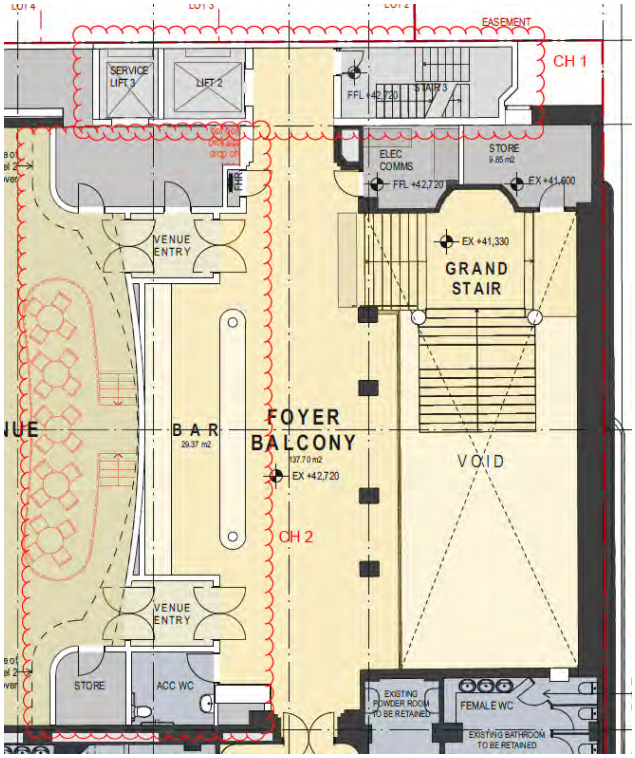
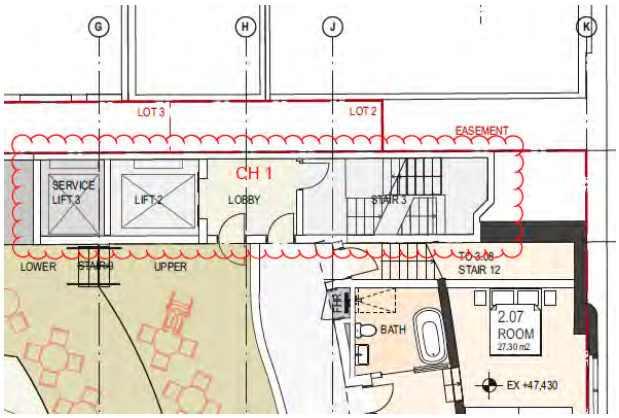
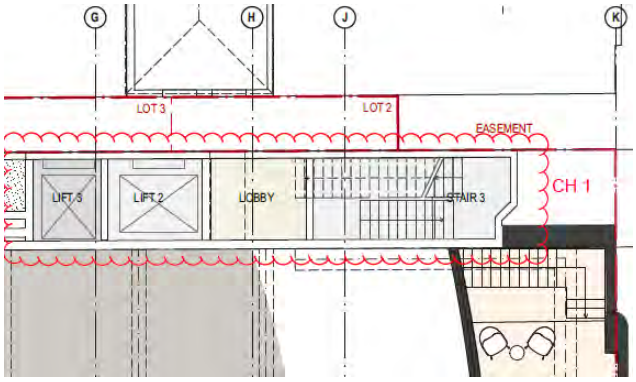
## Amendments to Proposal in Response to Sydney Local Planning Panel Comments

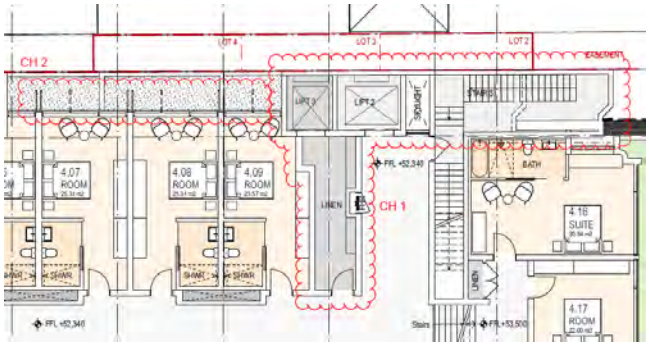
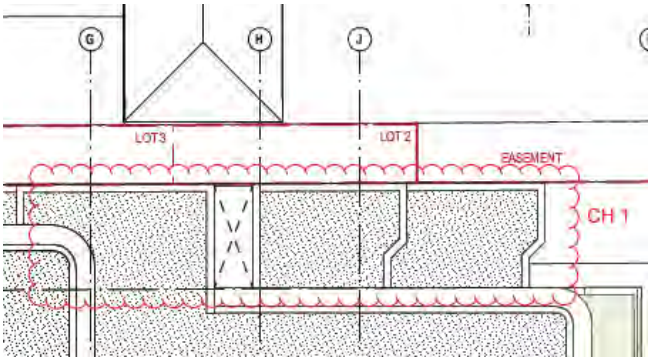
The table below outlines the further plan amendments that has been submitted to address concerns raised in the recent Sydney Local Planning Panel Meeting consideration of this DA regarding the ground floor, back-of-house floor layout and visual privacy. Refer to the amended architectural drawings prepared by TZG Architects enclosed to this letter.

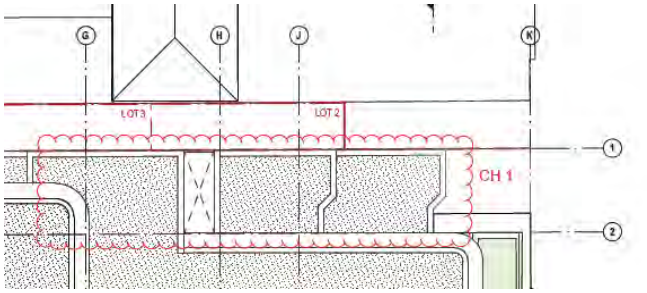
### Table 1: Design Changes

| Concern | Response |
|---|---|
| **Basement 2**<br><br><u>Design change</u><br>• CH1 - Move the fire stair 2 and reconfigured lifts 2 and 3<br>• CH2 - Shift the column line and relocated staff kitchenette.<br><br><u>Design Intent</u><br>The proposed amendment is due to improving the separation of the entertainment venue from the hotel |  |

| Concern | Response |
|---|---|
| on Ground, Level 1 and Level 2 and improving circulation. | |
| **Basement 1**<br><br>Design Change<br><br>• CH1 - Moved fire stair 2 and reconfigured lifts 2 and 3.<br><br>• CH2 - Shifted column line.<br><br>Design Intent<br><br>• The proposed amendment is due to improving the separation of the entertainment venue from the hotel on Ground, Level 1 and Level 2 and improving circulation. |  |
| **Ground Floor**<br><br>Design Change<br><br>• CH1 - Moved fire stair 2 and reconfigured lifts 2 and 3 to enable hotel lobby and increase setback to lane.<br><br>• CH2 -Amended Foyer including added Airlock to entry, reconfigured entry foyer to separate hotel and venue uses and added cloaking desk adjacent entry foyer, moved Fire indicator panel to eastern side of entry.<br><br>• CH3 - Added Greenroom door access to Hotel Room G.01.<br><br>Design Intent<br><br>• The proposed amendment is due to improving the separation of the entertainment venue from the hotel on Ground, Level 1 and Level 2 and improving circulation.<br><br>• Provide additional back of house area for performers during performances.<br><br>• Improve the acoustic performance of the hotel through the implementation of the airlock. |  <br>  |

| Concern | Response |
|---|---|
| **Level 1**<br><br>Design Change<br><br>• CH1 - Reconfigured fire stair 3 and lifts 2 and 3 – Improved Foyer balcony lift lobby.<br><br>• CH2 - Amended bar layout and accessible WC location.<br><br>Design Intent<br><br>• The proposed amendment is due to improving the separation of the entertainment venue from the hotel on Ground, Level 1 and Level 2 and improving circulation.<br><br>• The proposed amendment is to improve the entertainment venue. |  |
| **Level 2**<br><br>Design Change<br><br>• CH1 - Reconfigured fire stair 3 and lifts 2 and 3.<br><br>Design Intent<br><br>• The proposed amendment is due to improving the separation of the entertainment venue from the hotel on Ground, Level 1 and Level 2 and improving circulation |  |
| **Level 3**<br><br>Design Change<br><br>• CH1 - Reconfigured fire stair 3 and lifts 2 and 3.<br><br>Design Intent<br><br>• The proposed amendment is due to improving the separation of the entertainment venue from the hotel on Ground, Level 1 and Level 2 and improving circulation. |  |

| Concern | Response |
|---|---|
| **Level 4**<br><br>Design Change<br><br>• CH1 - Reconfigured fire stair 3 and lifts 2 and 3 - new skylight to lobby, linen store modified Lift Lobby 2, reconfigured.<br><br>• CH2 - Added vertical window shrouds to 4.06, 4.07, 4.08, 4.09 for privacy.<br><br>Design Intent<br><br>• The proposed amendment is due to improving the separation of the entertainment venue from the hotel on Ground, Level 1 and Level 2 and improving circulation.<br><br>• Improve the visual privacy of the properties to the north though mitigating sightlines from the hotel rooms through privacy measures. |  |
| **Level 5**<br><br>Design Change<br><br>• Reconfigured fire stair 3 and lifts 2 and 3 including lowered height of Stair 3 roof and added skylight east of Lift 2.<br><br>• Added vertical window shrouds to rooms 5.06, 5.07, 5.08, 5.09 to provide additional privacy to northern neighbour while maintaining views.<br><br>Design Intent<br><br>• The proposed amendment is due to improving the separation of the entertainment venue from the hotel on Ground, Level 1 and Level 2 and improving circulation.<br><br>• Improve the visual privacy of the properties to the north though mitigating sightlines from the hotel rooms through privacy measures. |  |

| Concern | Response |
|---|---|
| **Level and /Roof**<br><br>Design Change<br><br>• Roofs change for reconfigured fire stair 3 and lifts 2 and 3.<br><br>Design Intent<br><br>• The proposed amendment is due to improving the separation of the entertainment venue from the hotel on Ground, Level 1 and Level 2 and improving circulation. |  |

## Response to Sydney Local Planning Panel Comments

The table below identifies the key concerns raised by the Sydney Local Planning Panel and a detailed response to those concerns:

### Table 2: Additional documents included as an appendix to this letter

| Concern | Response |
|---|---|
| 1. *Inadequate clause 4.6 variation request – height of buildings and/or the potential to minimise the view impacts by reducing the height of part of the proposed development above the fly tower.* | This amended Clause 4.6 Variation Request provides a more detailed analysis and commentary on the environmental impacts of the extent of the Sydney LEP 2012 height standard variation, particularly in respect of the visual, overshadowing, privacy, view loss and noise amenity of the surrounding public domain and private properties,and reaffirms the original assessment that strict compliance with the height standard is unreasonable and unnecessary in this instance.<br><br>The height standard non-compliance and clause 4.6 variation request has been supported by both the City of Sydney Design Panel and City of Sydney Council. Further, the proposed building envelope which includes a variation to the height standard, results in less visible bulk and loss of significant views than that of a compliant building envelope as demonstrated in the Clause 4.6 Variation Request and height comparison by TZG Architects. The distribution of floor area from above the main auditorium to above the fly tower is a result of technical guidance from Council staff and advice from Council's Design Advisory Panel on a previous redevelopment proposal for this site in 2019, who were supportive of more of the thin, tower style design adopted for the current proposal, encouraging a maximum height variation of 3 metres, up to 25 metres as the optimal means of achieving the allowable floor space in a limited part of the site in the existing taller fly tower structure along the western boundary, whilst still minimising view |

| Concern | Response |
|---|---|
| | loss impacts for surrounding properties and heritage integrity of the Minerva building.<br><br>Urbaine were commissioned to prepare a detailed view loss assessment based on the principles of the judgment of "Tenacity Consulting v Warringah Council" which includes a four-step assessment process to be used when making planning decisions with respect to view sharing. The view loss assessment is enclosed to this letter.<br><br>As detailed in the view loss study, at RL +59.16m: From standing height, looking west from the study room window of apartment No 505 of the adjacent residential flat building at 113-115, Macleay Street there are partial views available of the Harbour Bridge and Opera House. The proposal has been designed to ensure the views of the Opera House will largely be protected from the study room window. The area of the building that has been modulated to protect this view sits under the maximum height standard, maximum FSR standard, maximum number of storeys control. |
| 2. *The question of reversibility is also required to be more effectively addressed.* | If GTAs are granted, the approval issued by council must be consistent with them. The Heritage Council was satisfied in their assessment that the proposal satisfactory addressed reversibility.<br><br>Notwithstanding, TZG Architects have provided additional sections and statement of response which further demonstrates the reversibility of the proposal. Further, the proposal re-instates the original theatre by removing the intrusive office additions which is considered a significant contribution to reversing the building to its most historically significant use. |
| 3. *The privacy and amenity of residents to the north requires more consideration with suitable design amendments* | TZG Architects have prepared a visual privacy analysis illustrating the outlook of the proposed hotel rooms upon the habitable windows and roof terraces of the properties to the north.<br><br>Vertical window shrouds to rooms 5.06, 5.07, 5.08, 5.09 have been added to provide additional privacy to northern neighbour while maintaining views.<br><br>As illustrated in the visual privacy analysis, the proposed flyer tower includes screens to prevent direct overlooking of the communal roof terrace of the wayside chapel rooftop area. |
| 4. *further design resolution in separating the cabaret area from the hotel use.* | The amended proposal includes three new changes to the plans to further improve the resolution of the use of the cabaret area from the hotel use.<br><br>1. The ground floor foyer has been further developed to separate the uses and distinguish the arrival for visitors to the hotel and/or entertainment venue.<br><br>2. The ground level hotel room which is to be used for "VIP" Performers and includes a wardrobe, makeup, and accommodation during performances. |

| Concern | Response |
|---|---|
| | The room has the capability of being used as a hotel room at other times when not being used for "VIP" performances. The use of the room is detailed in the supporting plan of management included with the DA.<br>3. Lift 2 has been reconfigured to provide clear separation between the hotel and the venue. This change has resolved previous conflicts across Ground, Level 1 and Level 2.<br>As detailed in the operations plan, plans identifying the exclusive use areas for hotel and entertainment are identified on every level as are the shared areas. The finishing kitchen is required to be close to the performances space and have meals ready to be served between performances and part of the Mondaine entertainment model and does not conflict with the performance use. |
| 5. *The issues of hotel room amenity* | The hotel rooms are considered to have suitable amenity for the following reasons:<br>• The proposal has been amended to address this comment by changing the design and location of the proposed Level 2 Lift and providing a new hotel lobby to avoid conflict between proposed theatre and hotel uses.<br>• The hotel room size, layout and design are a result of comprehensive input from the global hotel operator, which has significant experience in the adaptive reuse of heritage buildings to delivery high quality hotels.<br>• As conditioned, the proposed hotel rooms are compliant with the amenity standard included within the BCA for Class 3 building including ventilation and access to natural light.<br>• The rooms will be designed to comply with the relevant acoustic standards outlined in the supporting acoustic report and required by the DA Consent.<br>• It is not uncommon for hotel rooms to be quirky in their layout and arrangement within heritage buildings and the rooms will underpin the commercial success of the adaptive reuse of the building to convert the existing office within the auditorium area to its historical use as a live performance entertainment facility.<br>• As detailed in the operational plan, a large artist mural is proposed to the wall within the fly tower which will improve the amenity of these rooms and provide visual interest to the rooms. The mural will relate to stories of Minerva. |
| 6. *Hotel and venue circulation and the lack of hotel back-of-house facilities* | Central Element have engaged an international hotel operator and separately engaged an entertainment operator to operate the auditorium venue, which provides contemporary Parisian cabaret. offering a blended experience of dining, immersive music shows and live entertainment. |

| Concern | Response |
|---|---|
| *Inadequacy of theatre back-of-house needs to be resolved*<br><br>*The operational constraints imposed on the venue due to the number of hotel rooms and the potential conflicts between discrete uses also require further consideration.* | The design of the back of house area has been considered in great detail and continually refined by the future entertainment venue operator and hotel operator. Refer to the detailed operational plan included with the DA which details the hotel and entertainment facility back of house requirements. Both operators were heavily involved in the development of the back of house and the compliance check in this plan shows that the needs of each operator have been met.<br><br>Th floors plans, in the operations plan, identify the exclusive use areas for hotel and entertainment are identified on every level as are the shared areas.<br><br>The entertainment offered proposes is contemporary in nature does not require stage sets. It is described as the next generation of Parisian Cabaret. It will be a nocturnal adventure offering a high end and experimental dining concept, consisting of immersive music shows and participative entertainment, enhanced by sound and light. The operator's production and entertainment team will be curating a powerful program comprising a total of 40 distinct sequences to ensure every evening is unique.<br><br>The amended proposal includes the changes listed above, which further improve upon the operations. |

## Numerical Changes

Table 3 below provides a numeric comparison of the revised development and the original development.

**Table 3. Comparison between the numerical details of the original development and the revised development**

| Component | Details | |
|---|---|---|
| | **Amended DA – March 2023** | **Amended DA – August 2023** |
| Site Area | 1,267m² | 1,267m² |
| Gross Floor Area | 4,246.4m$^2$ | 4,240.4m$^2$ |
| Floor Space Ratio | 3.35:1 (0.48:1 below ground) | 3.35:1 (0.48:1 below ground) |
| Maximum Height | 25m | 25m |
| Storeys | 7 Storeys | 7 Storeys |
| Basement Levels | 3 Storeys | 3 Storeys |
| Hotel Rooms | 63 | 63 |
| Car Spaces | 2 car parking spaces | 2 car parking spaces |
| Bicycle Spaces | 7 Class 2 spaces and 20 Class 3 spaces | 7 Class 2 spaces and 20 Class 3 spaces |
| Loading Dock | 1 | 1 |

## Patron numbers

Table 4 below provides a numeric comparison of the revised development and the original development in relation to the non-residential use patrons.

**Table 4. Comparison between the original development and the revised development patrons**

| Level / Use | Maximum Patrons | |
|---|---|---|
| | **Amended DA – March 2023** | **Amended DA – August 2023** |
| Ground Level - Cafe | 30 | 30 |
| Ground Level - Entertainment Facility, Restaurant and Bar | 250<br>There will be up to 20 days per annum where the venue would host a VIP performer and seating would be removed to allow for the maximum capacity of 450 guests. | 250<br>There will be up to 20 days per annum where the venue would host a VIP performer and seating would be removed to allow for the maximum capacity of 450 guests. |
| Basement Small Bar | 110 | 110 |

### Hours of operation

The auditorium venue will typically operate 5 days a week as a 250-seat venue. The precinct anchored by the auditorium venue (G-L2) will be a catalyst for the area aligned with both the Sydney 24 Hour Economy Strategy and the Committee for Sydney's "a Vision for Kings Cross". It will bring a unique and international immersive entertainment experience that is unique to Sydney and Australia. For this reason we are requested the extended hours to 2am. This closing time also aligns with Mondaine in Paris and the Mondaine underdevelopment in Istanbul and Madrid.

**Table 4. Change in hours of operation**

| Level / Use | Standard Hours | Extended Hours | Standard Hours | Extended Hours |
|---|---|---|---|---|
| | **Original DA – March 2023** | | **Amended DA – August 2022** | |
| Ground Level - Cafe | 7am to 12am | N/A | 7am to 12am | N/A |
| Ground Level - Entertainment Facility, Restaurant and Bar | 10am to 10pm | 7am to 2am | 10am to 10pm | 7am to 1am, 2am on Friday and Saturday |
| Basement Small Bar | 7am to 11am | 7am to 3am | 7am to 11am | 7am to 1am |

### Cost of Works

Concern was raised at the Sydney Local Planning Panel and by City of Sydney Council staff that the cost of works for the development proposal based on the cost estimate report submitted with the DA is inaccurate and consideration has not been given to the Capital Investment Value (CIV) of the proposal.

The CIV of a project is calculated based on the definition included in Schedule 7 of the Environmental Planning Assessment Regulation 2021 with consideration given to the contents of Planning Circular PS 10-008 New Definition of Capital Investment Value issued 10 May 2010, the contents of Circular PS13 – 002 Calculating the Genuine Estimated Cost of Development dated 14 March 2013 and the plans, architectural drawings developed for the project.

Independent Registered Quantity Surveyors WT Partnership have been engaged to prepare a detailed Capital Investment Value (CIV) for the proposed development application. The report identifies the cost of works are

significantly more than $50,000,000. The CIV number provided by WT Partnership is based on a detailed quantities measure and has also been impacted by the following factors:

- The heritage constraints that have been imposed, by Heritage Council and City of Sydney, have had significantly impact on the demolition, temporary works, bulk excavation, underpinning, contingency, preliminaries, and margin.
- Hotel operator engagement – luxury hotel brand versus a mid-scale.
- Entertainment operator engagement – customised production with state of the art sound and light with multiple stages and full fit out. Previously assumed as an open venue for hire.

## Conclusion

While the revised development still retains the general built form and essence of the hotel and live performance entertainment facility development as originally submitted, it is evident that changes have been made to progress the design and ensure it appropriately responds to the Sydney Local Planning Panel's concerns.

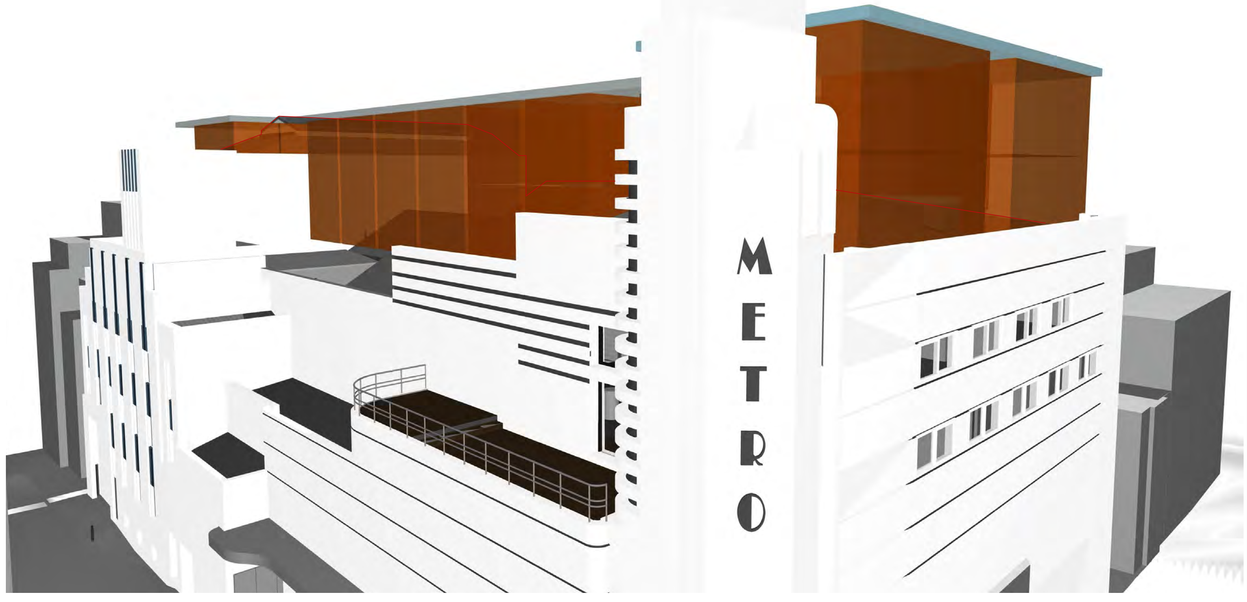
A CIV Cost Estimate Report has been prepared by an Independent Registered Quantity Surveyor as requested by City of Sydney Council.

We trust the contents of this letter satisfactorily address the items raised by the Sydney Design Panel. We also trust it will assist Council in finalising their assessment of the DA as early as may be possible. Please do not hesitate to contact me on 0422 983 710 or dbarber@centralelement.com.au should you have any further queries.

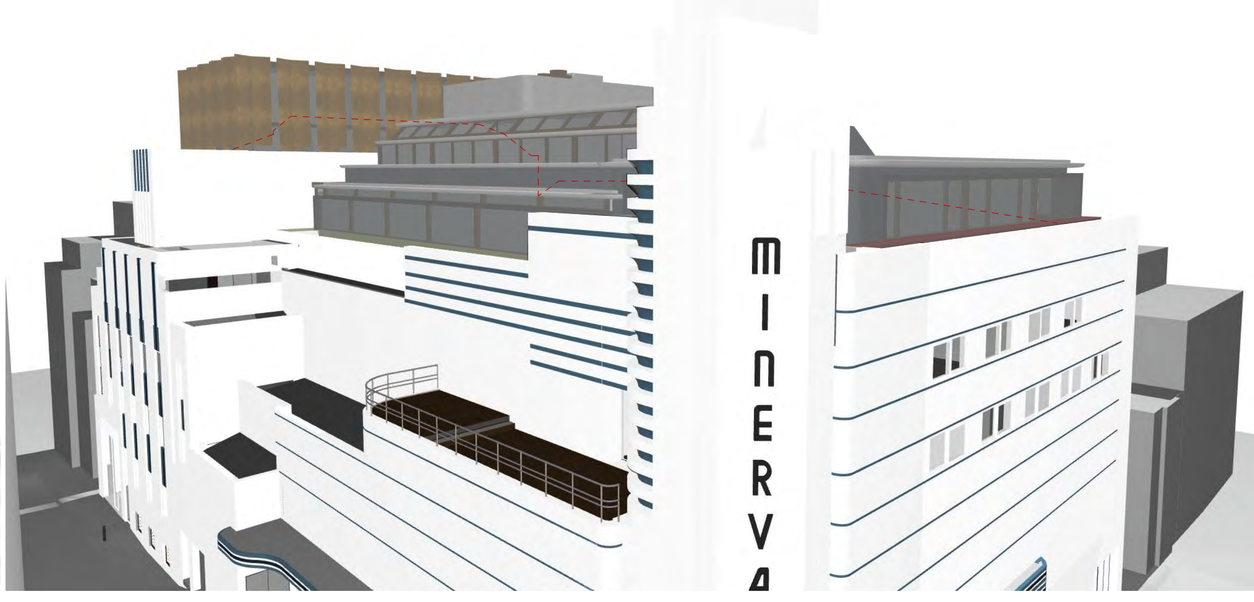
Yours sincerely,



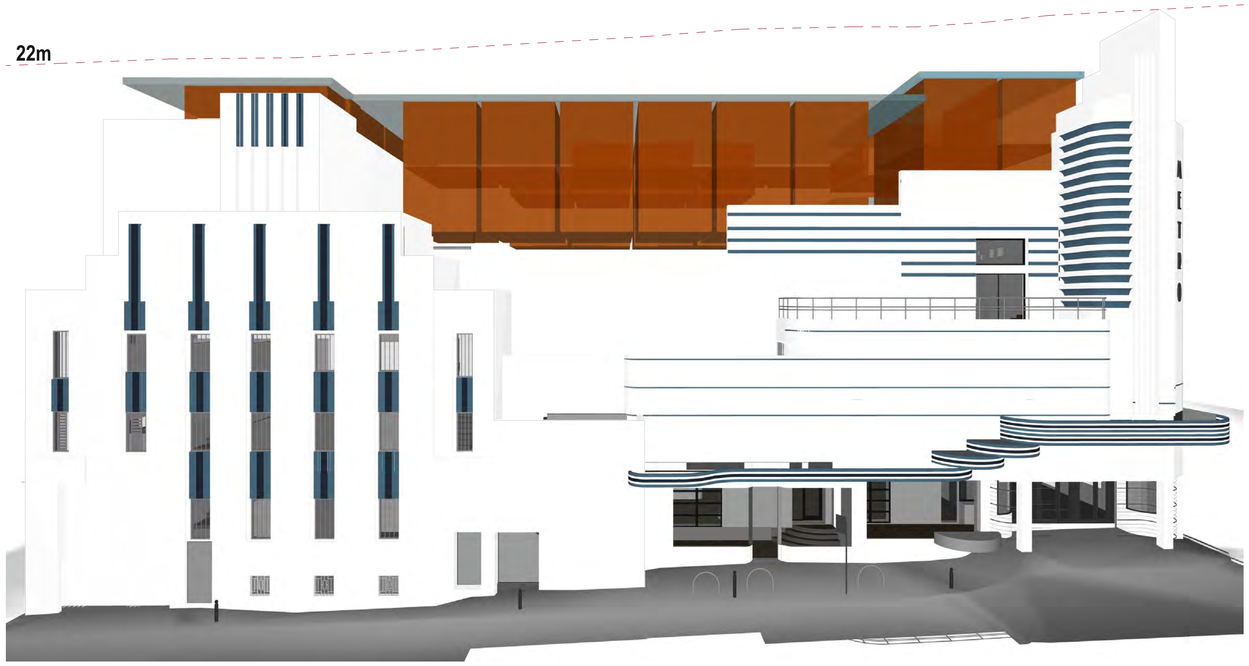
Daniel Barber
Head of Planning
B.Plan (Hons), M.ProDev, CPP
Central Element




<22m LEP Height Compliant Scheme




<25m Proposed Flytower Scheme




<22m LEP Height Compliant Scheme




<25m Proposed Flytower Scheme

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 11 AUG 2023 | A | DEVELOPMENT APPLICATION |

**NOTES:**
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PROJECT :
THE MINERVA

PROJECT NO : 20024

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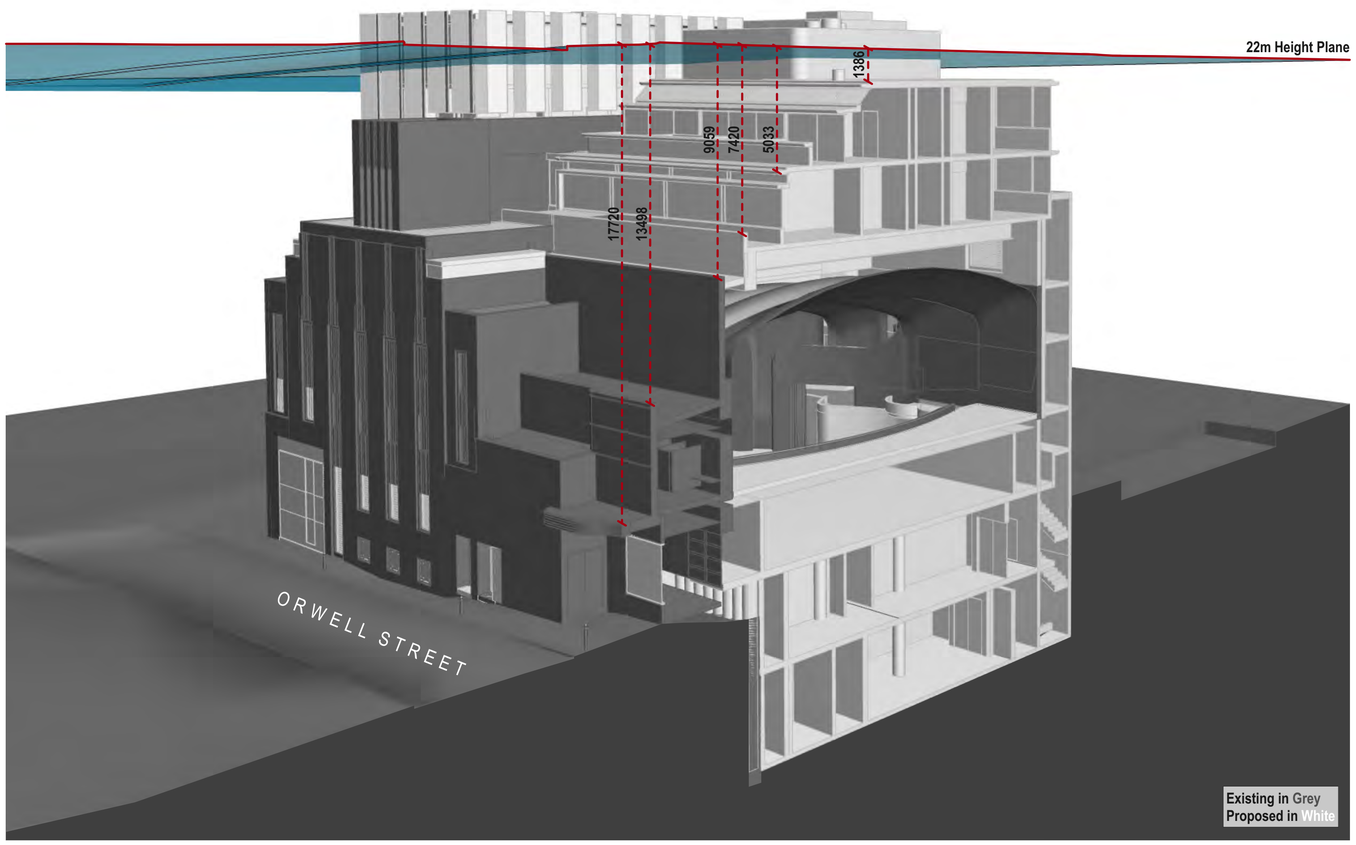
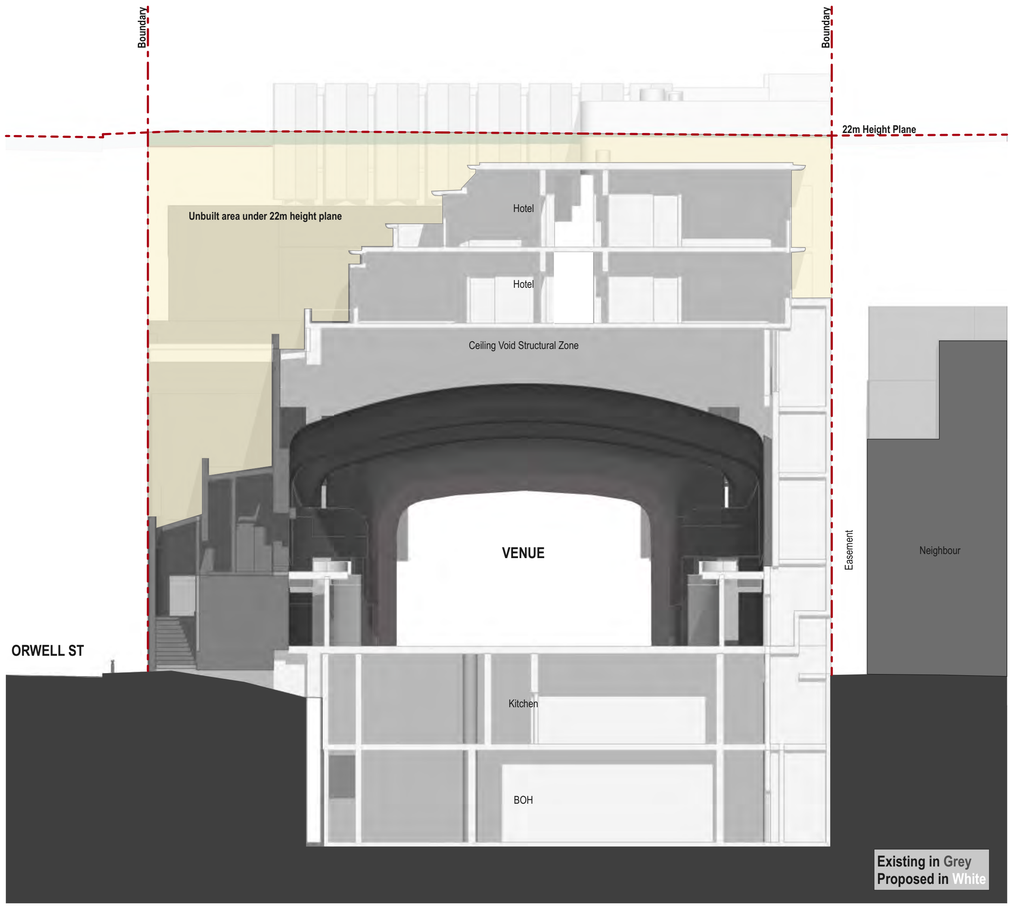
**DRAWING TITLE**
LEP VS PROPOSED HEIGHT COMPARISON

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** NTS
**DATE** 16/8/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-605
**REV** A






| DATE | REV | DESCRIPTION: |
|---|---|---|
| 16 AUG 2023 | - | DEVELOPMENT APPLICATION |

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THE MINERVA

PROJECT NO : 20024

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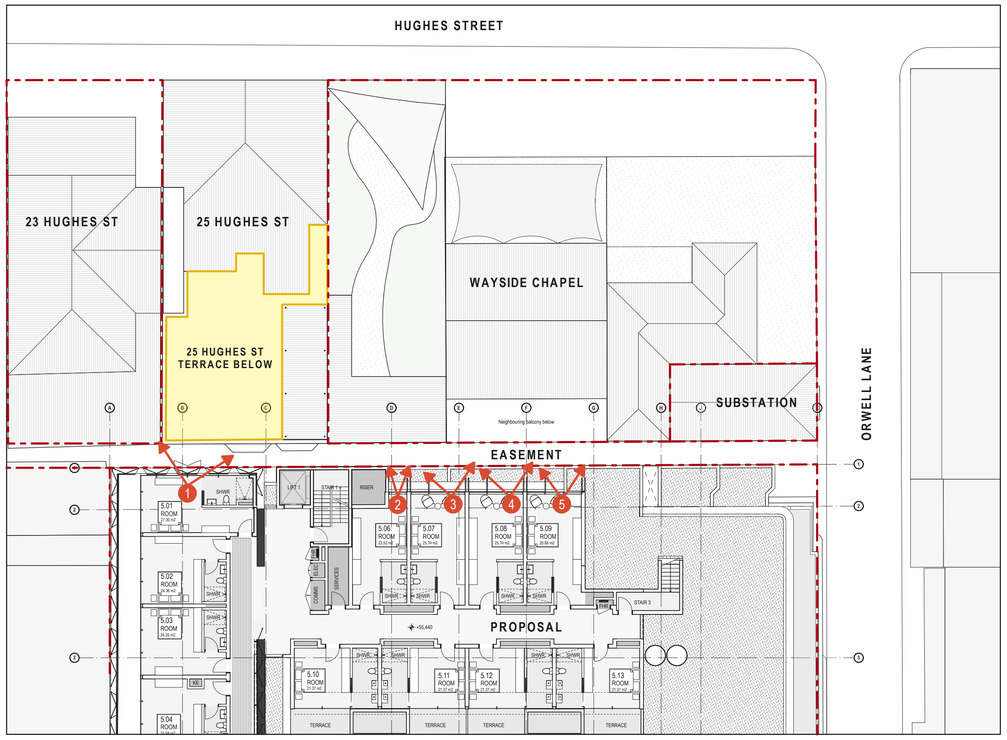
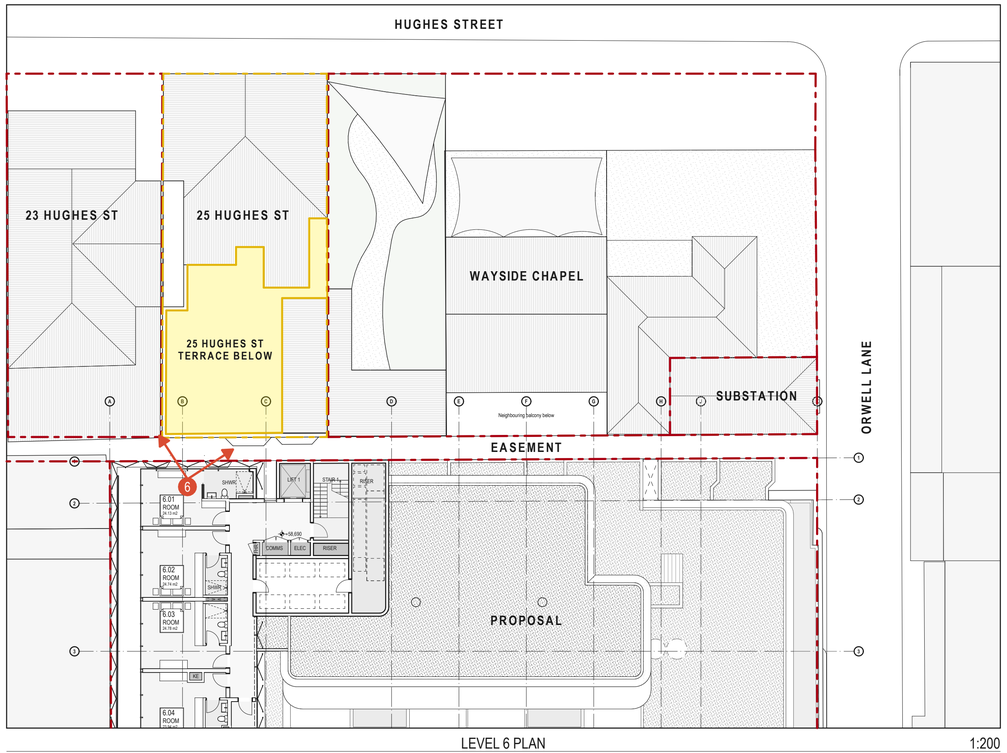
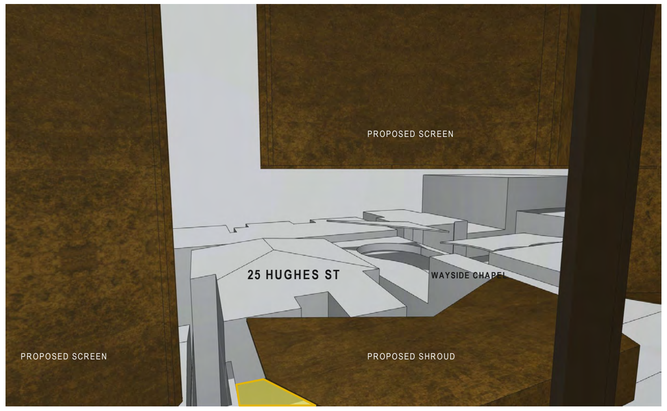
| | | |
|---|---|---|
| **DRAWING TITLE**<br>22m HEIGHT PLANE | | **DRAWN BY**<br>TS, TL |
| | | **CHECKED**<br>TS |
| **SCALES**<br>**NTS** | | **DATE**<br>16/8/2023 |
| **PHASE**<br>DEVELOPMENT APPLICATION | **DRAWING NO**<br>**A-606** | **REV**<br>- |




LEVEL 5 PLAN 1:200




LEVEL 6 PLAN 1:200

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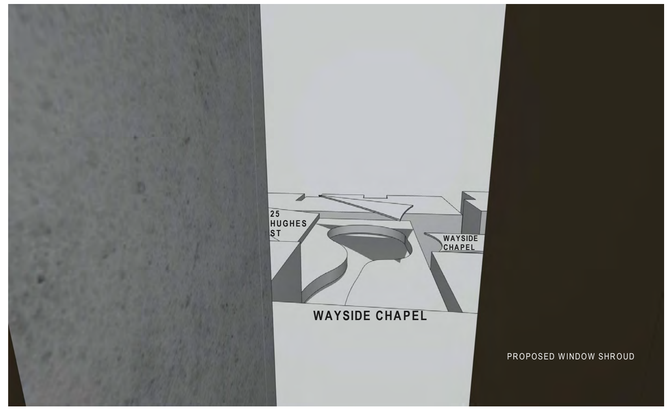


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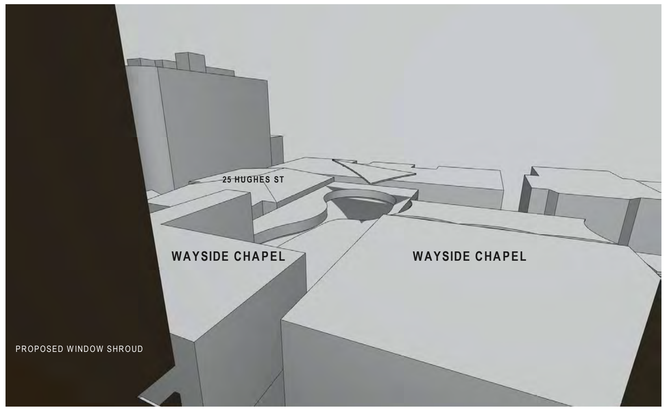
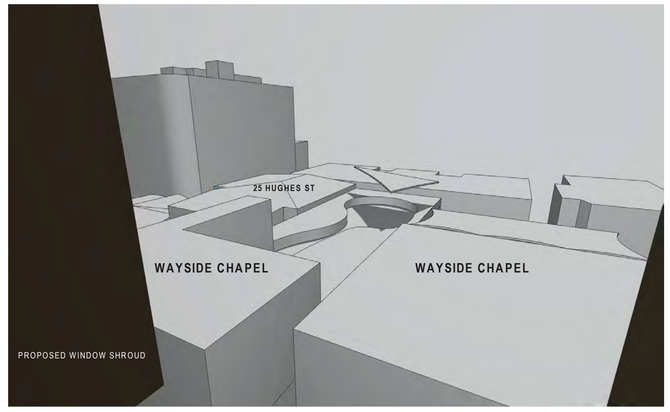


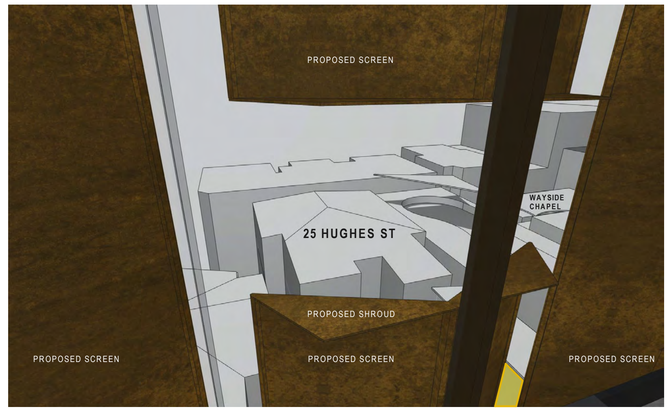

3 VIEW FROM ROOM 5.07




4 VIEW FROM ROOM 5.08




5 VIEW FROM ROOM 5.09




6 VIEW FROM ROOM 6.01

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 17 AUG 2023 | - | DEVELOPMENT APPLICATION |

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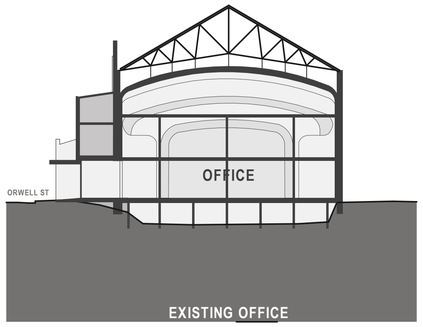
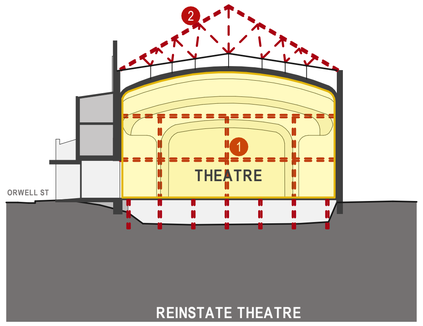
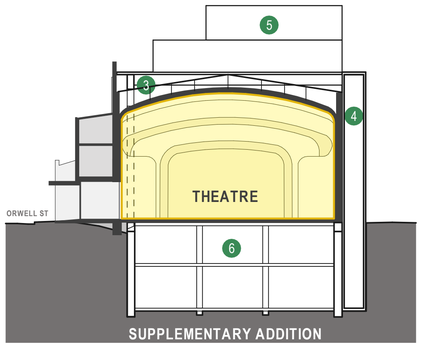
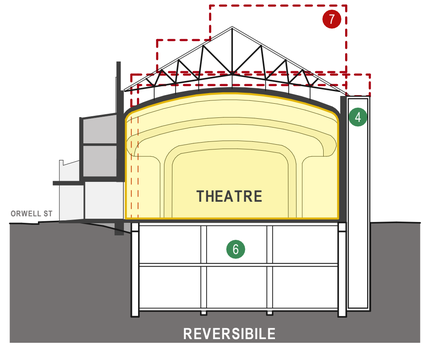
|---|---|---|---|
| DRAWING TITLE: VIEW DIAGRAMS | | | DRAWN BY: TS, TL |
| | | | CHECKED: TS |
| SCALES: NTS | | | DATE: 21/8/2023 |
| PHASE: DEVELOPMENT APPLICATION | DRAWING NO: A-607 | | REV: - |

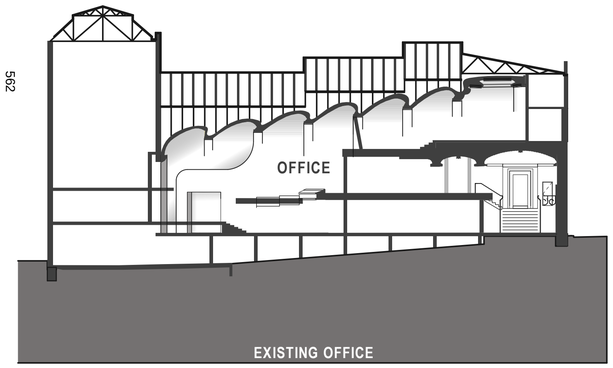
561

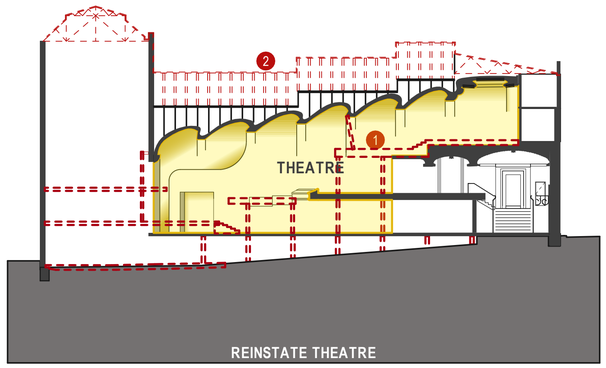


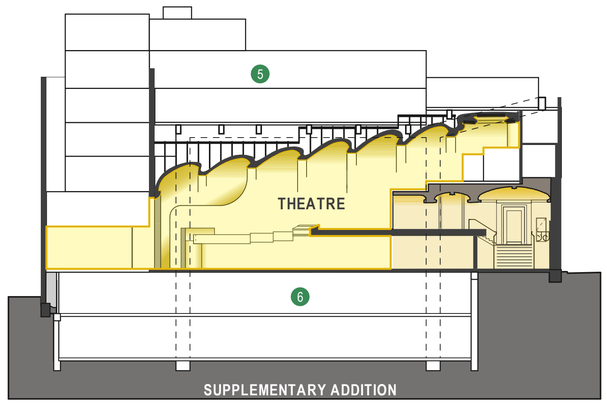



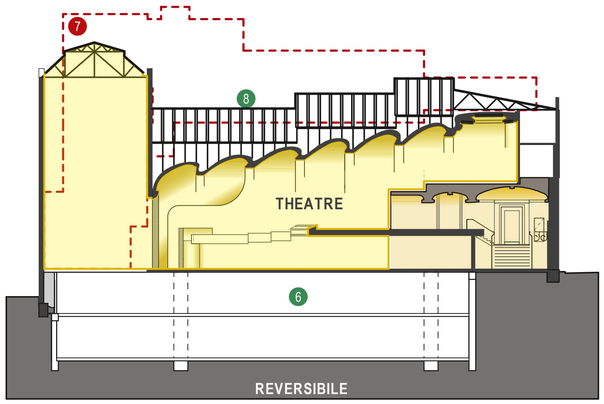




## KEY

1. Re-instate Original Theatre by removing intrusive office additions.
2. Remove original roof sheeting and trusses.
3. New Structural system spanning over Theatre, supporting the required re-fixing of original ceiling. Refer TTW Structural Engineers Details.
4. New Structural core to Seismic Code requirements.
5. New Hotel
6. New Back of House Facilities
7. Remove proposed addition over Theatre.
8. New roof truss in original location.

| DATE | REV | DESCRIPTION: |
|---|---|---|
| 17 AUG 2023 | - | DEVELOPMENT APPLICATION |

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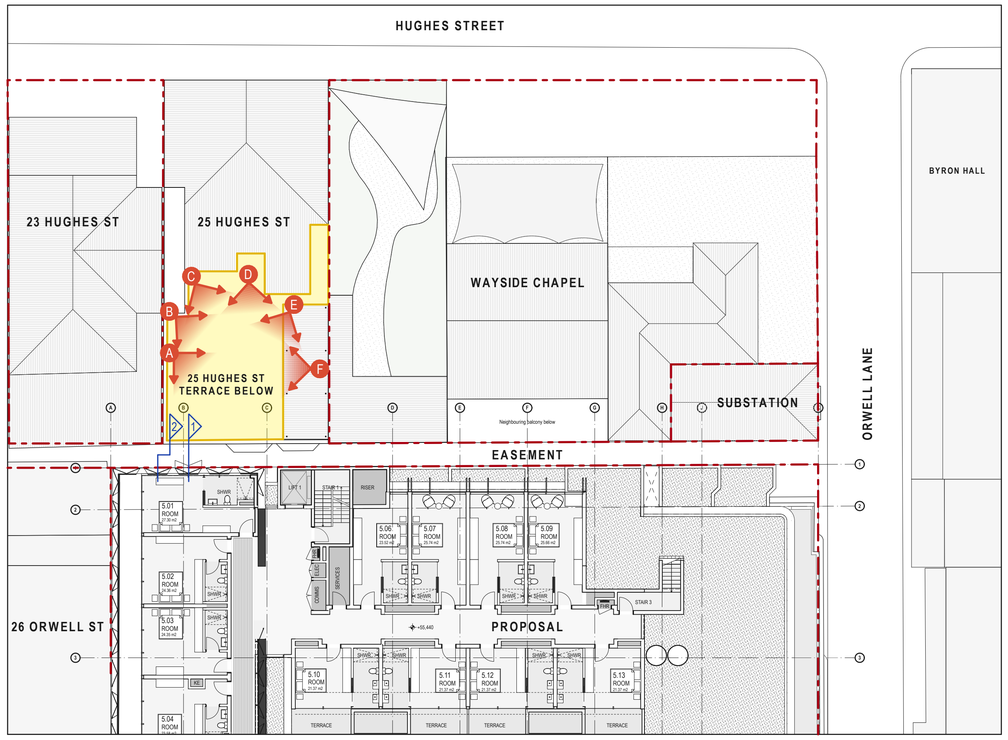
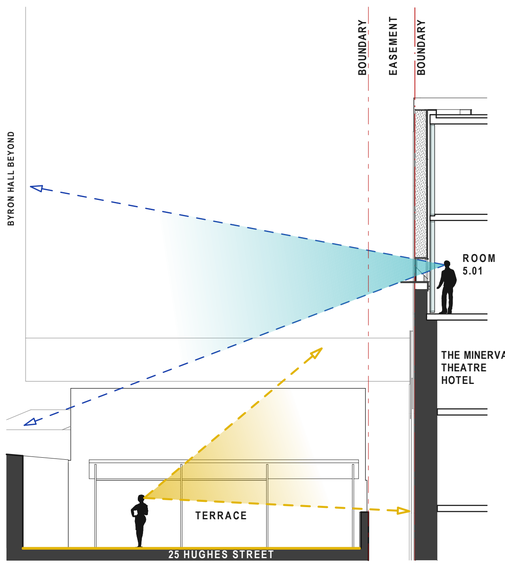
WEB www.tzg.com.au

**DRAWING TITLE**
REVERSIBILITY POTENTIAL

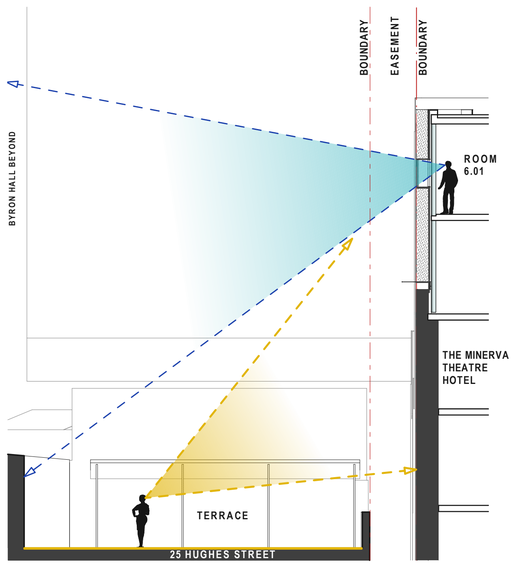
**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** NTS
**DATE** 17/8/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-608
**REV** -



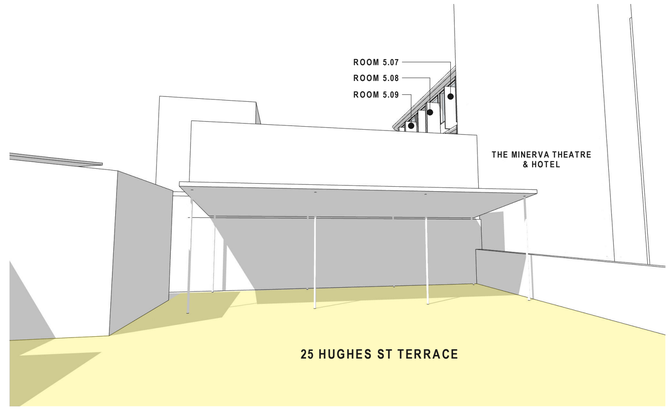

LEVEL 5 PLAN 1:200



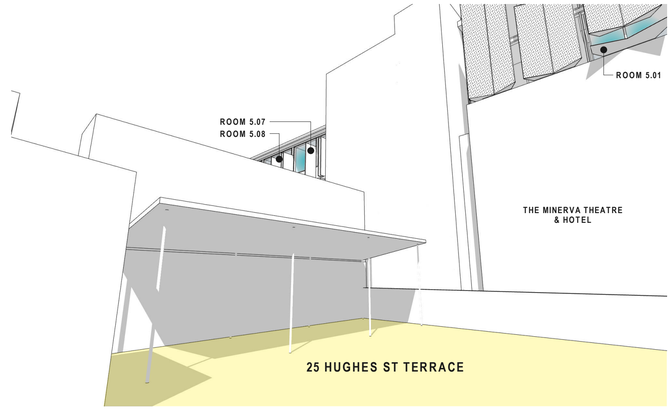

1 SECTION 1 - LEVEL 5 VIEW




2 SECTION 2 - LEVEL 6 VIEW




A VIEW A FROM 25 HUGHES ST TERRACE

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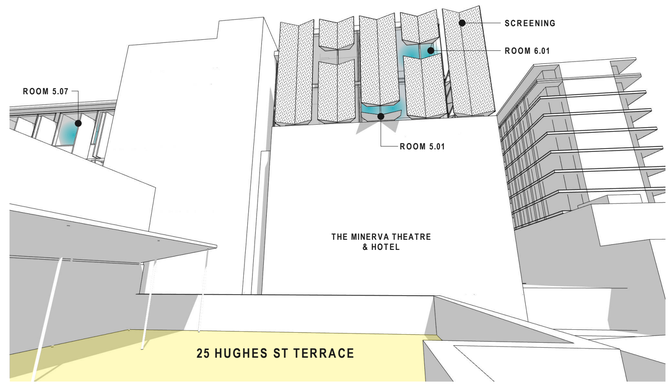


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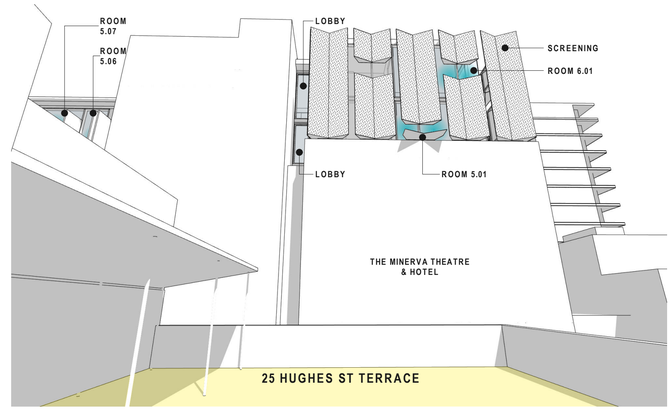


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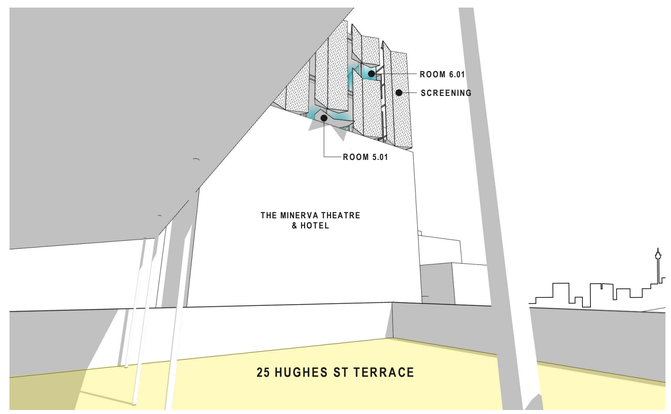


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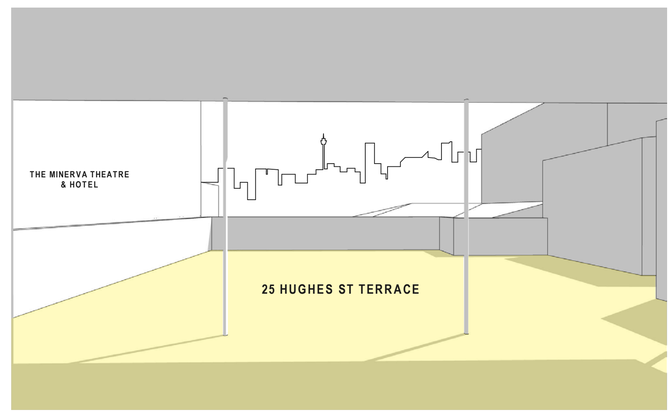


F VIEW F FROM 25 HUGHES ST TERRACE

| DATE | REV | DESCRIPTION: |
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| 21 AUG 2023 | - | DEVELOPMENT APPLICATION |

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THE MINERVA

PROJECT NO : 20024

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**DRAWING TITLE**
VIEW DIAGRAMS FROM 25 HUGHES ST TERRACE

**DRAWN BY** TS, TL
**CHECKED** TS
**SCALES** NTS
**DATE** 21/8/2023
**PHASE** DEVELOPMENT APPLICATION
**DRAWING NO** A-609
**REV** -





# THE MINERVA

*Sydney*



THE MINERVA HOTEL SYDNEY

A JOURNEY THROUGH A THOUSAND NIGHTS

ALWAYS FAMILIAR, ALWAYS CHANGING

AN ANTHOLOGY OF EXPERIENCE WAITING TO BE DISCOVERED

SYDNEY

HOTEL

THE MINERVA

BRAND HIERARCHY

# THE MINERVA

| MONDAINE | THE BAR | THE CHAMPAGNE BAR | SUPPER CLUB | THE TERRACE |
|---|---|---|---|---|
| | THE SALON | THE CHAMPAGNE GALLERY | THE OWL OF MINERVA | THE CONSERVATORY |
| | THE PARLOUR | THE GALLERY | | ORWELL'S |
| | | | | CAFE LOUDON |
| | | | | SAINTHILL |

# *... Operator Requirements*





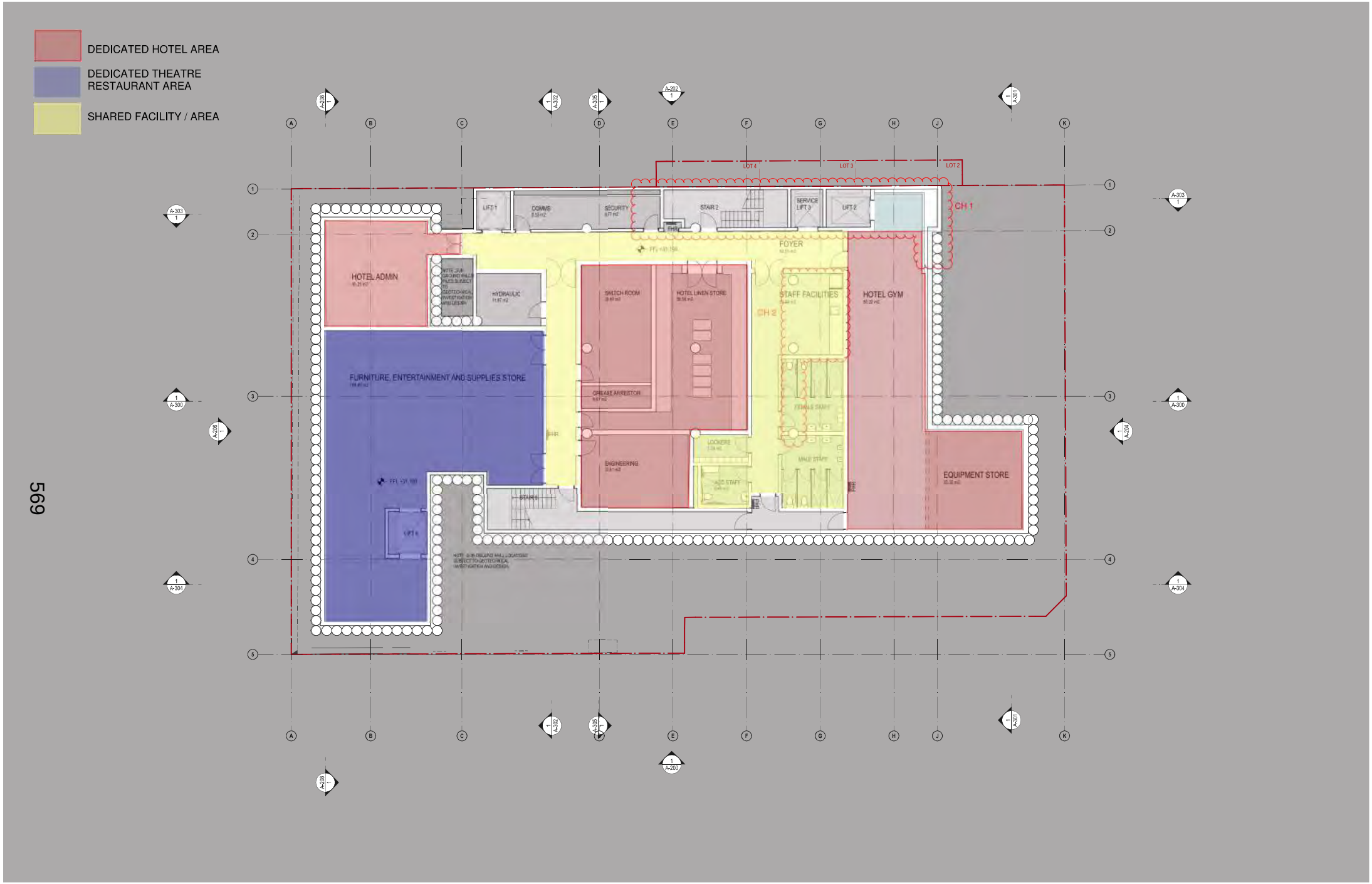
tonkin zulaikha greer

## Hotel Area Comparison

| Facility | Operator Req. (sqm) | Design (sqm) | Variance (sqm) | Hotel Operator Notes |
|---|---|---|---|---|
| Floor Linen Room (1/guest room floor) | 60 | 60 | 0 | |
| Main Lobby | 75 | 189 | 114 | Shared with Theatre Restaurant |
| Reception Desk / Pod | 10 | 9 | -1 | |
| Luggage Room | 6 | 12 | 6 | |
| Signature Café | 75 | 59 | -16 | Acceptable - excludes additional 20 outdoor seats |
| Signature Bar | 155 | 180 | 25 | |
| Concept Lounge Bar | 70 | 160 | 90 | Part of Main Lobby and Balcony |
| Health & Fitness Center | 60 | 82 | 22 | |
| Kitchen Areas (incl. Main Kitchen, Prep Area, IDR) | 187 | 190 | 3 | Shared with Theatre Restaurant |
| Storage Areas (incl. Cold Storage / Drinks & Bev / Grocery) | 56 | 68 | 12 | Shared with Theatre Restaurant |
| Conseal Storage (incl. Glassware / Office Facility) | 22 | 33 | 11 | Shared with Theatre Restaurant |
| Housekeeping (Linen & Soil Linen / Uniforms / General) | 67 | 57 | -10 | Acceptable - Off-site laundry. Shared with Theatre Restaurant |
| Administration | 60 | 40 | -20 | Acceptable with remote working changes |
| Staff Premises (M/F Lockers, Training, Time Keeper) | 118 | 129 | 11 | |
| Engineering Dept (Office, Storage, Workshop) | 32 | 33 | 2 | |
| Loading / Unloading - (in line with BCA requirements) | 50 | 170 | 120 | Sharing with Theatre Restaurant |
| Waste Management / Disposal Room | 40 | 42 | 2 | |
| **Total** | **1,143** | **1,513** | 370 | Oversized - Shared with Theatre Restaurant |

## Theatre Restaurant Venue Area Comparison

| Facility | Operator Req. (sqm) | DA Design (sqm) | Variance (sqm) | Theatre Restaurant Operator Notes |
|---|---|---|---|---|
| Prefunction / Foyer | 105 | 189 | 84 | Oversized - Shared with Hotel arrival |
| Hostess / Ticket Desk | 2 | 2 | 0 | |
| Main Bar | 40 | 48 | 8 | |
| L1 Bar | 30 | 30 | 0 | |
| Assembly Kitchen | 60 | 59 | -1 | |
| Prep and Finishing Kitchen | 100 | 150 | 50 | Shared with Hotel |
| Cold / Dry Store | 60 | 44 | -16 | Acceptable - Shared with Hotel |
| Green Room | 0 | 30 | 30 | |
| Cloakroom | 10 | 9 | -1 | To be at ticket desk |
| Entertainment Store | 120 | 159 | 39 | Flexibility for storage overflow |
| | 527 | 721 | 194 | Oversized - Shared with Hotel |
| | | | | |
| Main Venue - Covers | 250 Seats | 250 Seats | 0 | |

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| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | D | DEVELOPMENT APPLICATION |
| 10.FEB.2023 | E | DEVELOPMENT APPLICATION |
| 16.AUG.2023 | F | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

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PROJECT NO : 20024

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tonkin zulaikha greer

DRAWING TITLE
BASEMENT 2 FLOOR PLAN

SCALES
1:100 @ A1

PHASE
DEVELOPMENT APPLICATION

DRAWING NO
A-102

DRAWN BY
TS, TL

CHECKED
TS

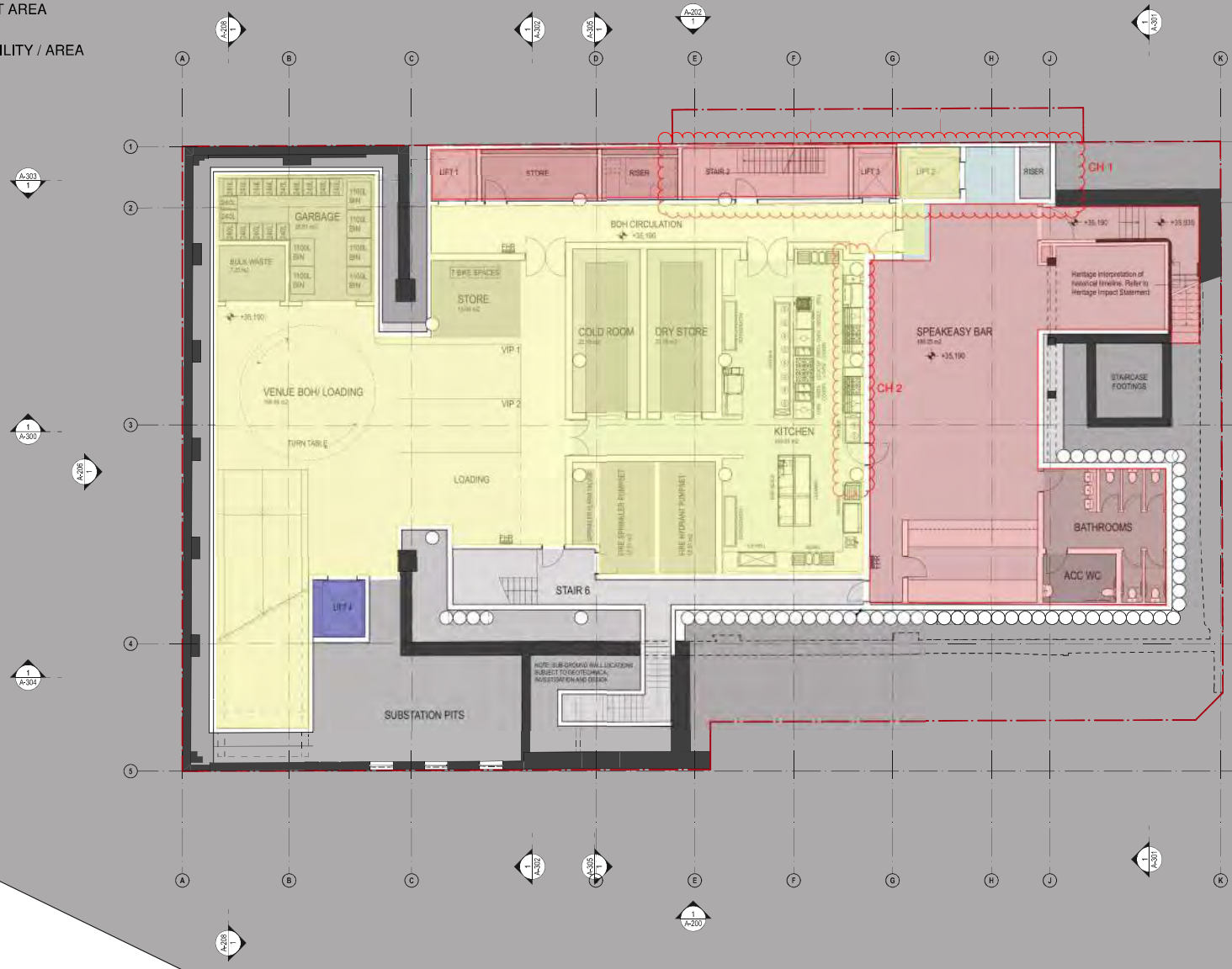
DATE
16/8/2023

REV
F

DEDICATED HOTEL AREA

DEDICATED THEATRE RESTAURANT AREA

SHARED FACILITY / AREA

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| DATE | REV | DESCRIPTION: |
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| 16 AUG 2021 | A | DEVELOPMENT APPLICATION |
| 03 JUN 2022 | B | DEVELOPMENT APPLICATION |
| 18 NOV 2022 | C | DEVELOPMENT APPLICATION |
| 08 DEC 2022 | D | DEVELOPMENT APPLICATION |
| 16 AUG 2023 | E | DEVELOPMENT APPLICATION |

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PROJECT:
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**DRAWING TITLE**
BASEMENT 1 FLOOR PLAN

**DRAWN BY**
TS, TL

**CHECKED**
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**SCALES**
1:100 @ A1

**DATE**
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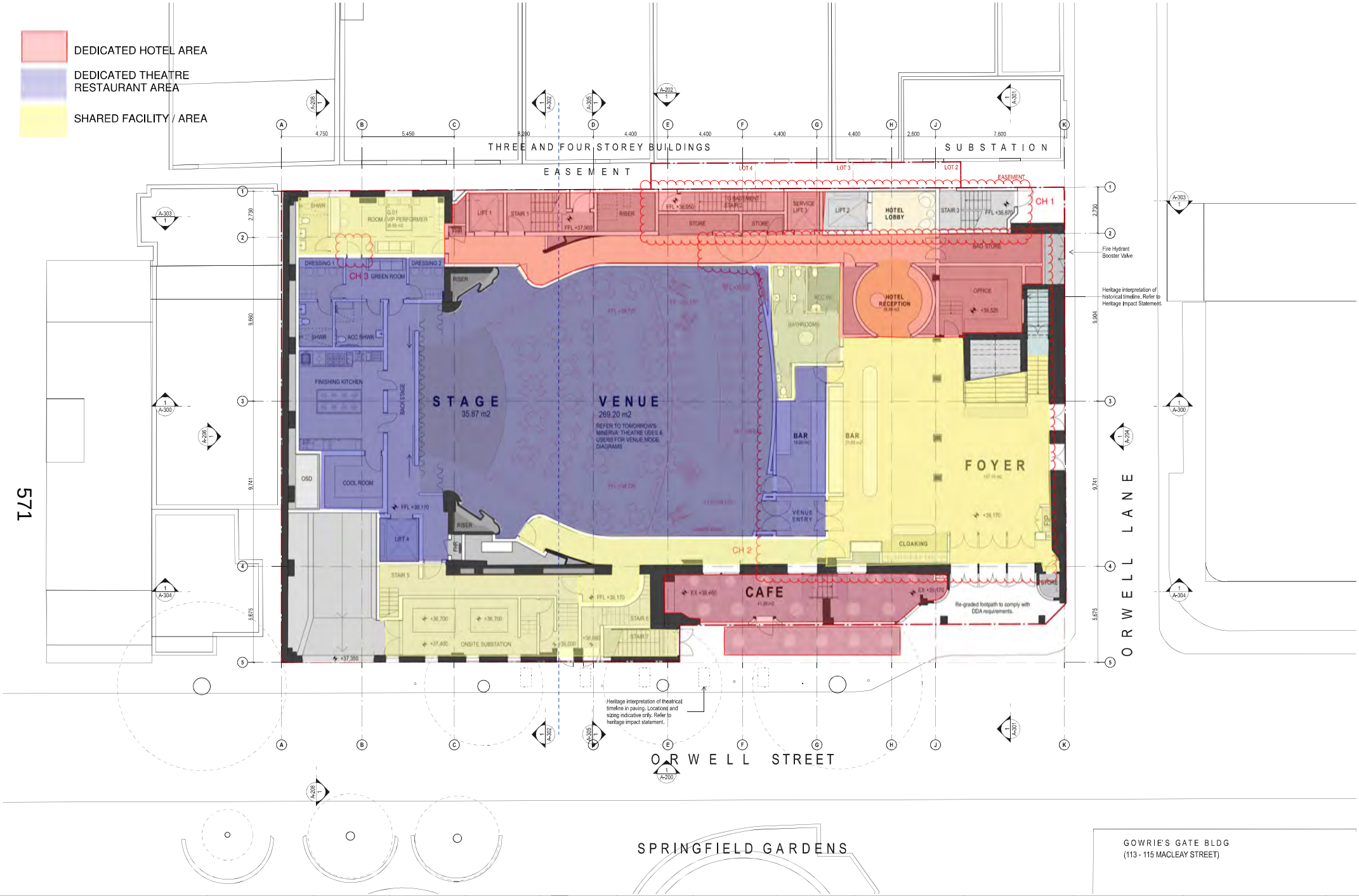
**PHASE**
DEVELOPMENT APPLICATION

**DRAWING NO**
A-103

**REV**
E

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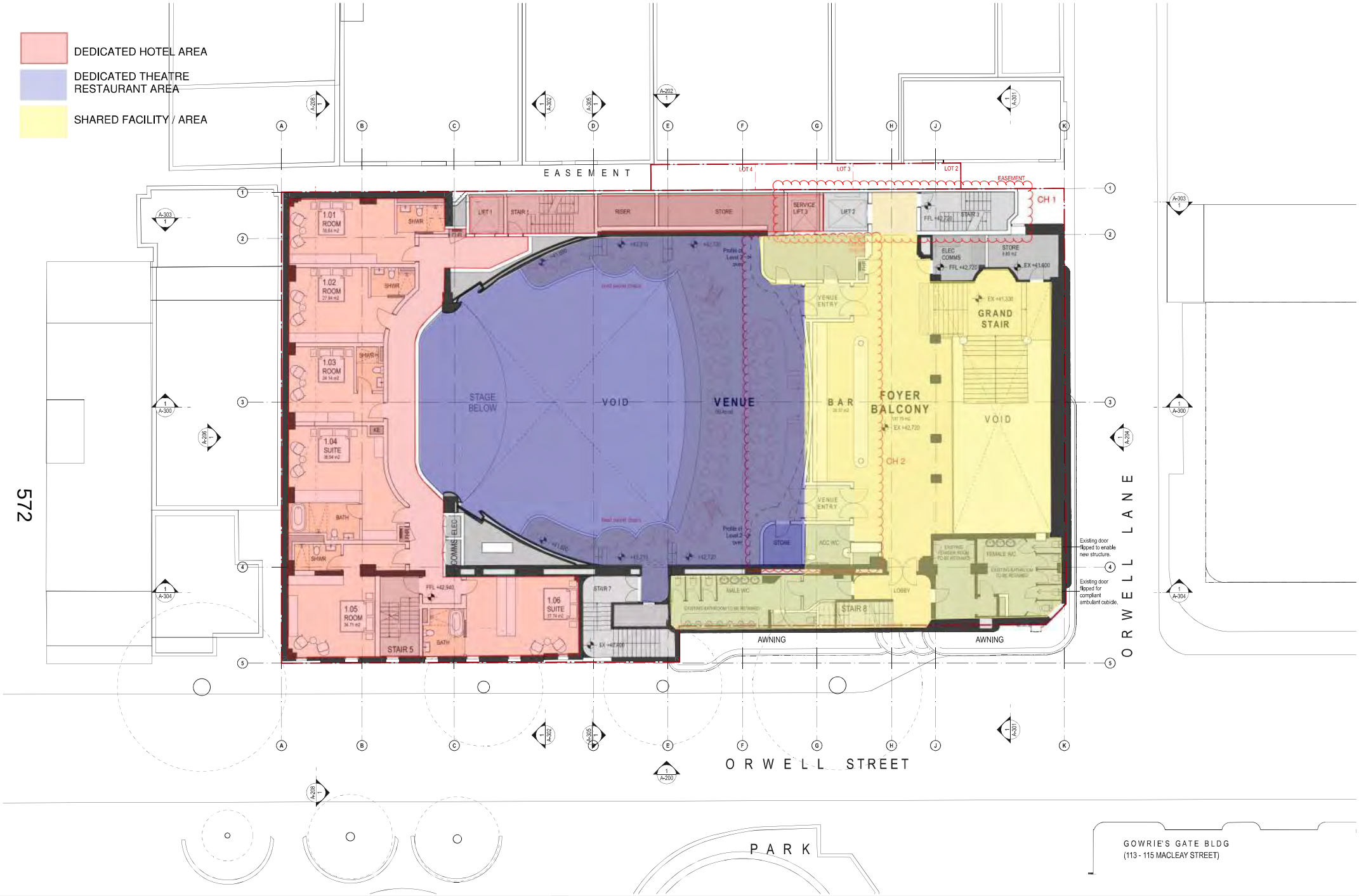
|---|---|---|---|
| DRAWING TITLE<br>GROUND FLOOR PLAN | | | DRAWN BY<br>TS, TL |
| | | | CHECKED<br>TS |
| SCALES<br>1:100 @ A1 | | | DATE<br>16/8/2023 |
| PHASE<br>DEVELOPMENT APPLICATION | DRAWING NO<br>A-104 | | REV<br>I |

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PROJECT:
THE MINERVA

SCALE 1:100

PROJECT NO : 20024

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DRAWING TITLE
LEVEL 1 PLAN

SCALES
1:100 @ A1

PHASE
DEVELOPMENT APPLICATION

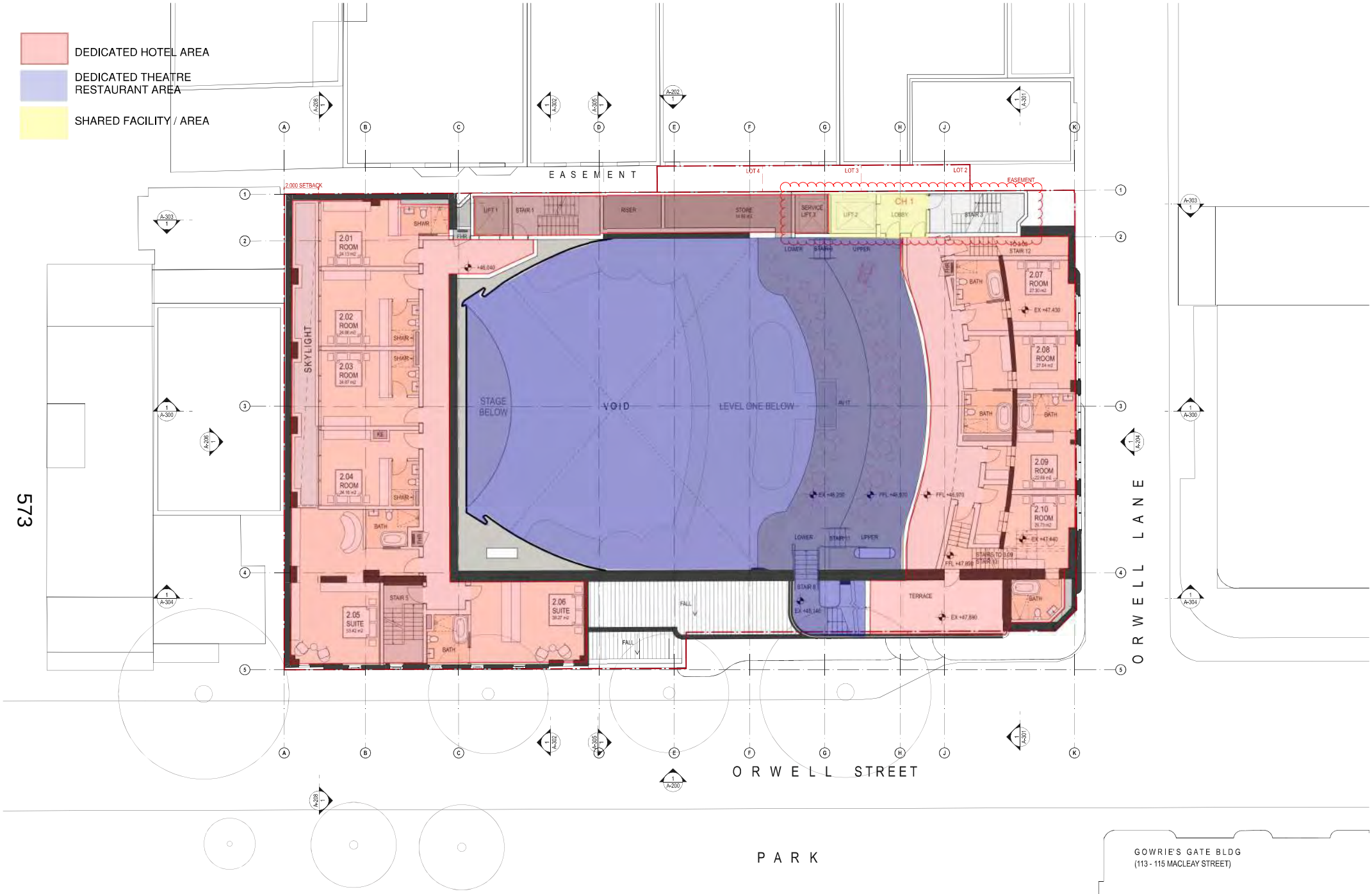
DRAWING NO
A-105

DRAWN BY
TS, TL

CHECKED
TS

DATE
16/8/2023

REV
G




| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 16.AUG.2021 | A | DEVELOPMENT APPLICATION |
| 03.JUN.2022 | B | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | C | DEVELOPMENT APPLICATION |
| 29.NOV.2022 | D | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | E | DEVELOPMENT APPLICATION |
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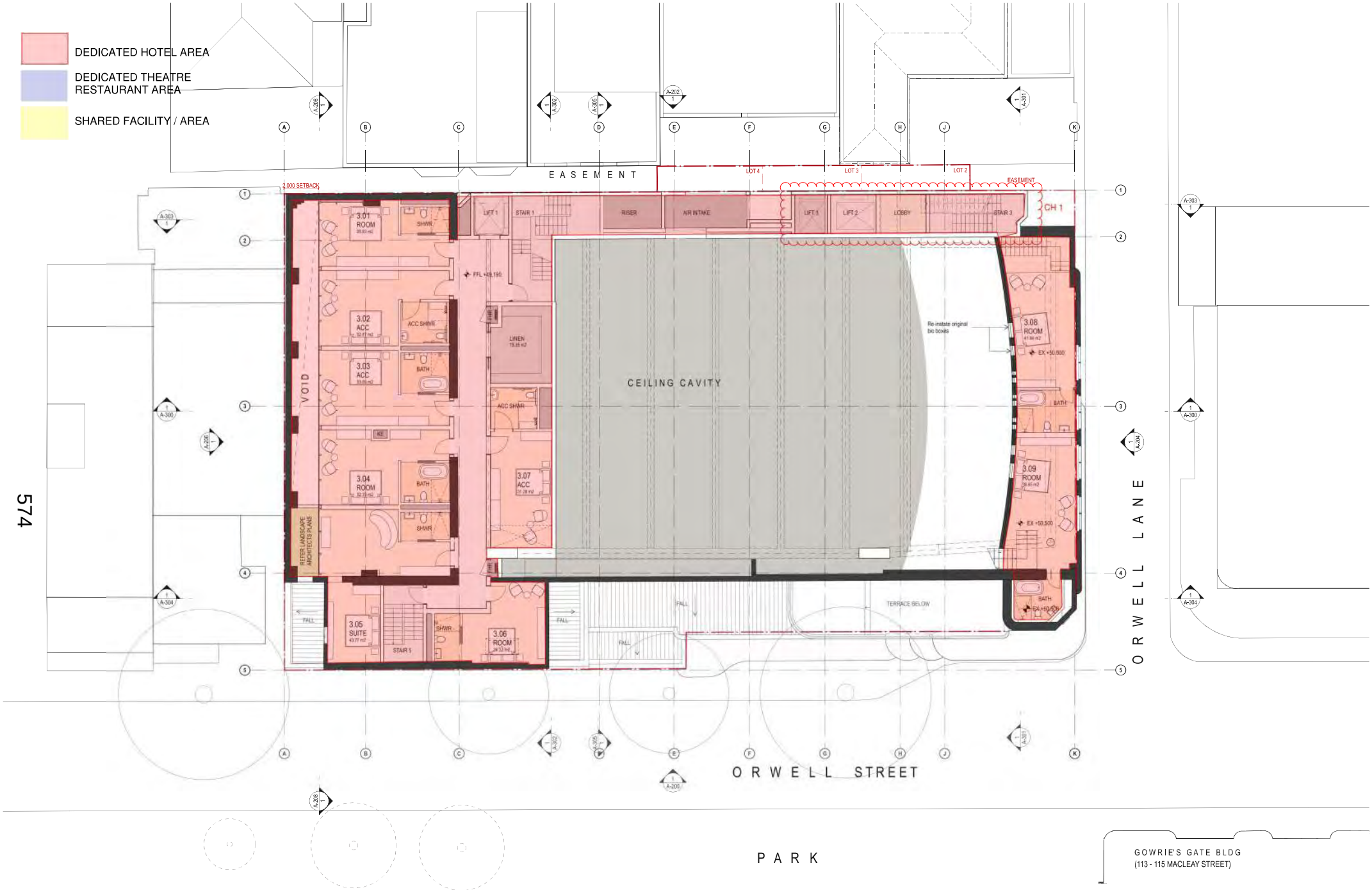
|---|---|---|
| DRAWING TITLE<br>LEVEL 2 PLAN | | DRAWN BY<br>TS, TL |
| | | CHECKED<br>TS |
| SCALES<br>1:100 @ A1 | | DATE<br>16/8/2023 |
| PHASE<br>DEVELOPMENT APPLICATION | DRAWING NO<br>A-106 | REV<br>G |

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| 22 JUL 2021 | - | DEVELOPMENT APPLICATION |
| 03 JUN 2022 | A | DEVELOPMENT APPLICATION |
| 18 NOV 2022 | B | DEVELOPMENT APPLICATION |
| 10 FEB 2023 | C | DEVELOPMENT APPLICATION |
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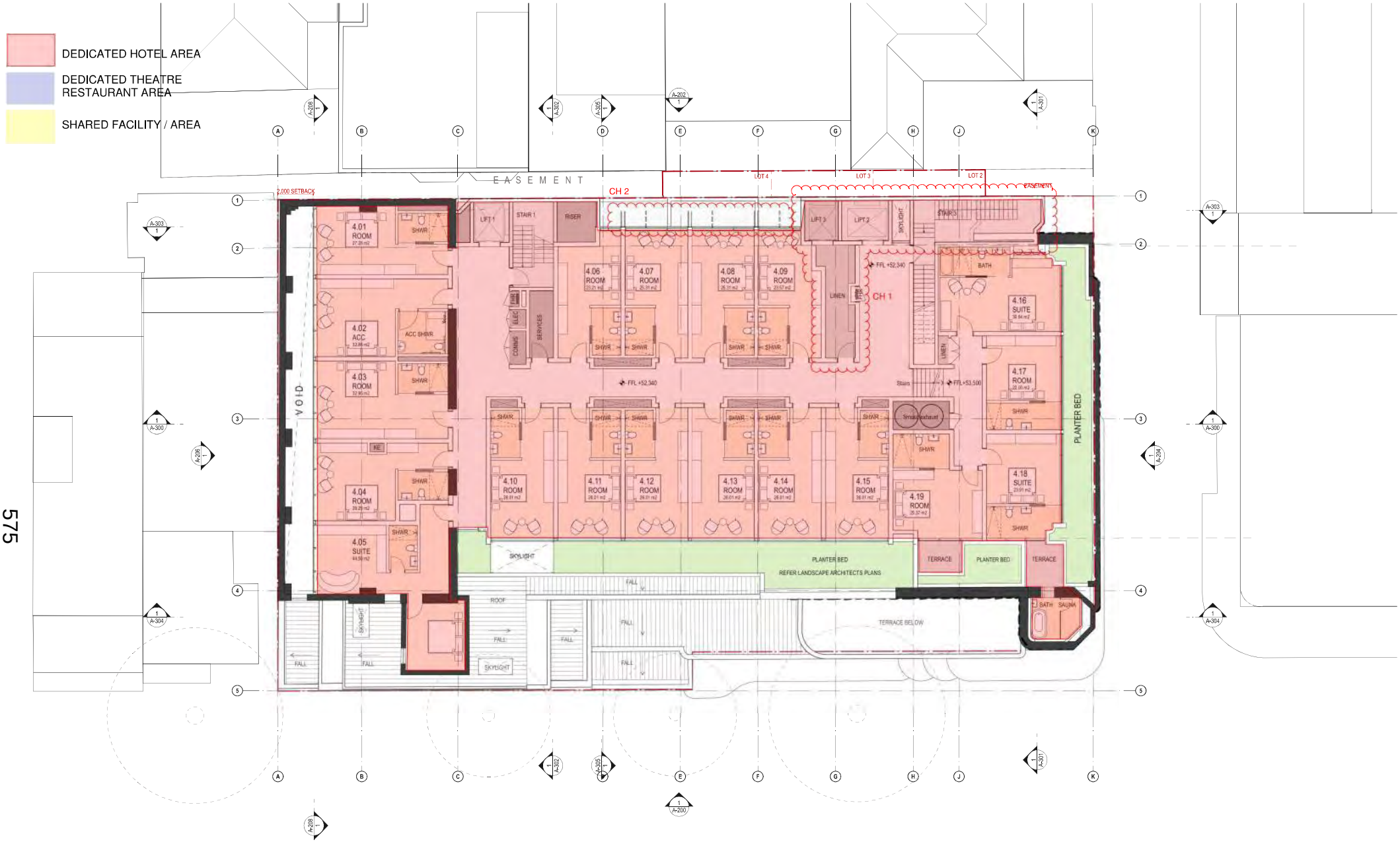
|---|---|---|
| DRAWING TITLE: LEVEL 3 PLAN | | DRAWN BY: TS, TL |
| | | CHECKED: TS |
| SCALES: 1:100 @ A1 | | DATE: 16/8/2023 |
| PHASE: DEVELOPMENT APPLICATION | DRAWING NO: A-107 | REV: D |

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| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22 JUL 2021 | - | DEVELOPMENT APPLICATION |
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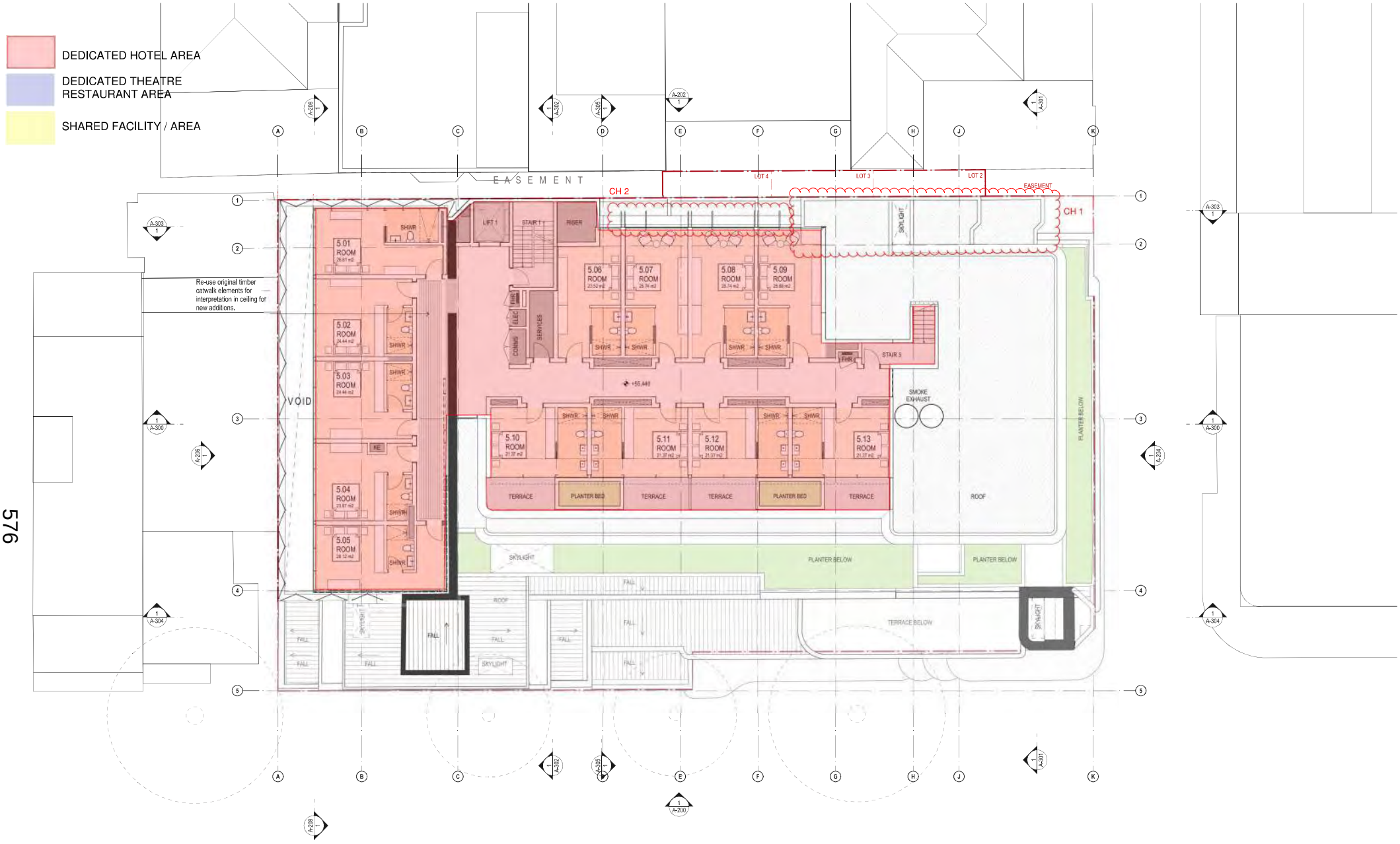
|---|---|---|---|
| DRAWING TITLE<br>LEVEL 4 PLAN | | | DRAWN BY<br>TS, TL |
| | | | CHECKED<br>TS |
| SCALES<br>1:100 @ A1 | | | DATE<br>16/8/2023 |
| PHASE<br>DEVELOPMENT APPLICATION | DRAWING NO<br>A-108 | | REV<br>E |

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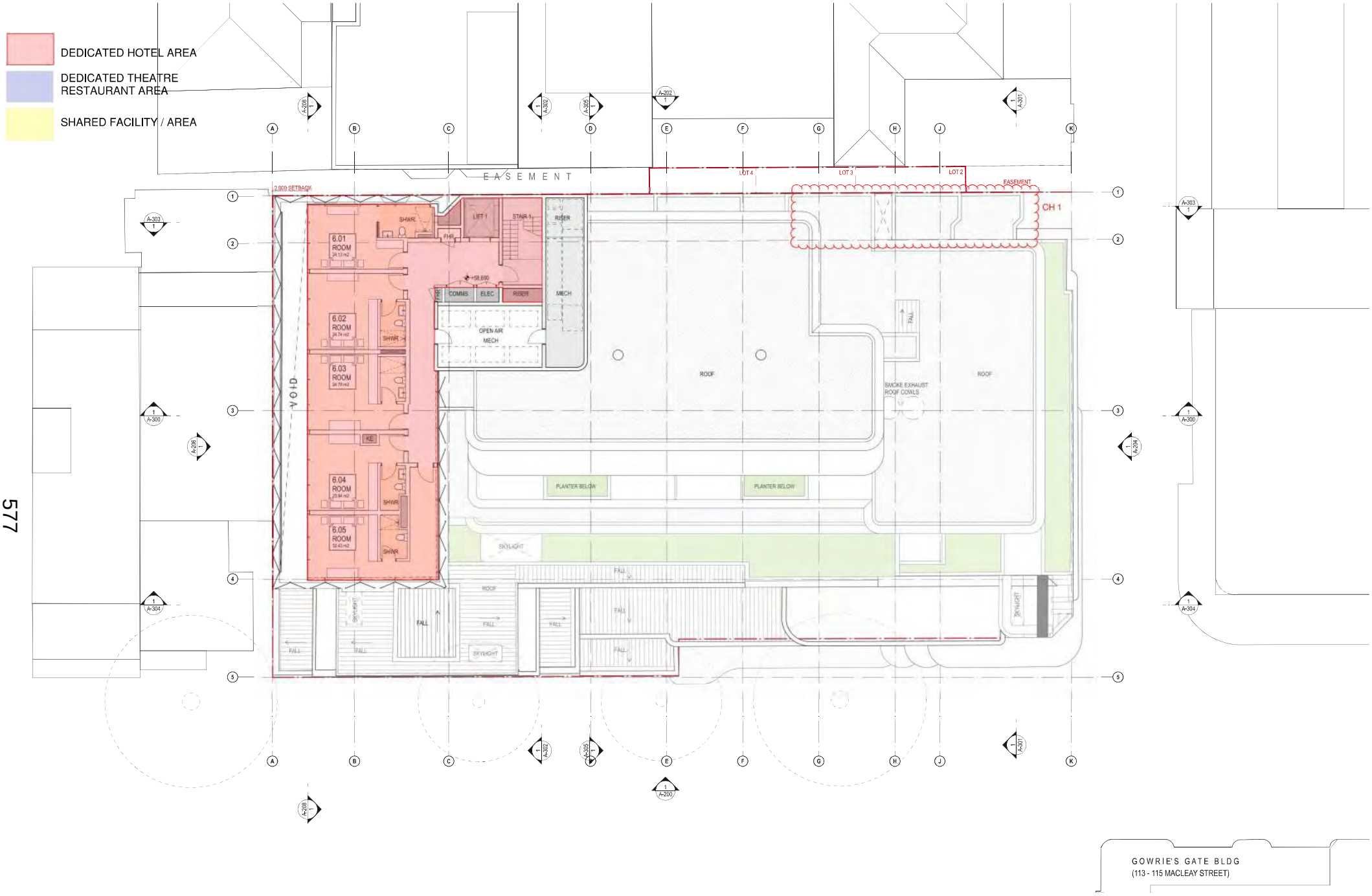
|---|---|---|
| DRAWING TITLE<br>LEVEL 5 PLAN | | DRAWN BY<br>TS, TL |
| | | CHECKED<br>TS |
| SCALES<br>1:100 @ A1 | | DATE<br>16/8/2023 |
| PHASE<br>DEVELOPMENT APPLICATION | DRAWING NO<br>A-109 | REV<br>F |

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PROJECT:
THE MINERVA

SCALE 1:100

PROJECT NO : 20024

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DRAWING TITLE
LEVEL 6 ROOF PLAN

SCALES
1:100 @ A1

PHASE
DEVELOPMENT APPLICATION

DRAWING NO
A-110

DRAWN BY
TS, TL

CHECKED
TS

DATE
16/8/2023

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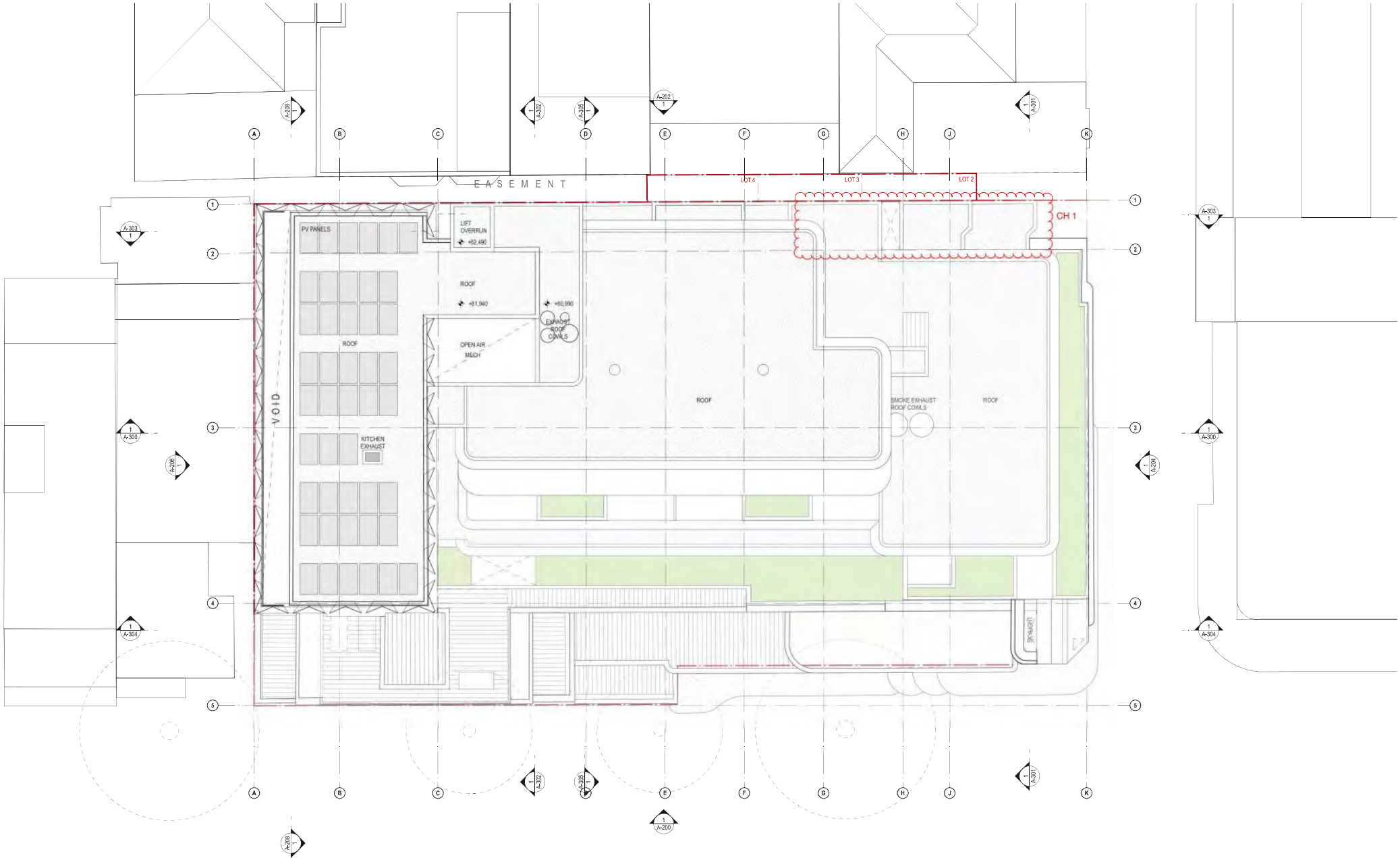


| DATE | REV | DESCRIPTION: |
|---|---|---|
| 22.JUL.2021 | - | DEVELOPMENT APPLICATION |
| 18.NOV.2022 | A | DEVELOPMENT APPLICATION |
| 08.DEC.2022 | B | DEVELOPMENT APPLICATION |
| 20.FEB.2023 | C | DEVELOPMENT APPLICATION |
| 16.AUG.2023 | D | DEVELOPMENT APPLICATION |

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PROJECT :
THE MINERVA

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0 1 2 3 4 5m

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**DRAWING TITLE**
ROOF PLAN

**SCALES**
1:100 @ A1

**PHASE**
DEVELOPMENT APPLICATION

**DRAWING NO**
A-111

**DRAWN BY**
TS, TL

**CHECKED**
TS

**DATE**
16/8/2023

**REV**
D

THE MINERVA

Sydney

579

# Mondaine

*Parisian caberet*

# THE HEART OF POTTS POINT...

580

MINERVA

# REINSTATED






# EUROPEAN HEART





# SYDNEY LIVING

*Your arrival is necessarily eclectic. It's a choose-your-own-adventure scenario, laced with elegance and exclusivity. A playfully lavish entrance from the street, or an exclusive hidden laneway. Whichever entrance you choose, be welcomed into an enigmatic atmosphere with a stroke of the unexpected.*




# ARRIVAL

## MAKE AN ENTRANCE

# ANIMATING THE STREET

*Reinstating the European heart of Potts Point*













*European sophistication spills out into the street, luring in passersby with a refined, easy-going charm.*

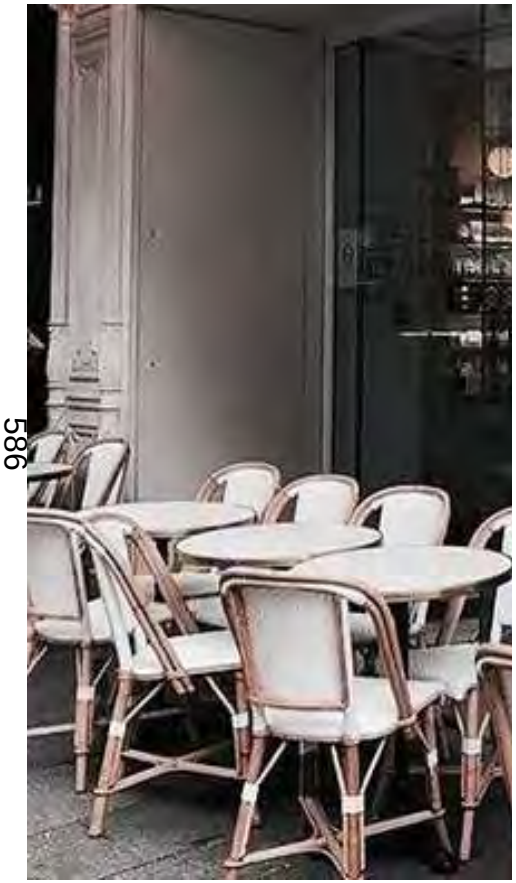
*An elegant and relaxed spot to take in the neighbourhood of Potts Point, from first-thing espresso to a lazy sundown wine.*





# THE TERRACE

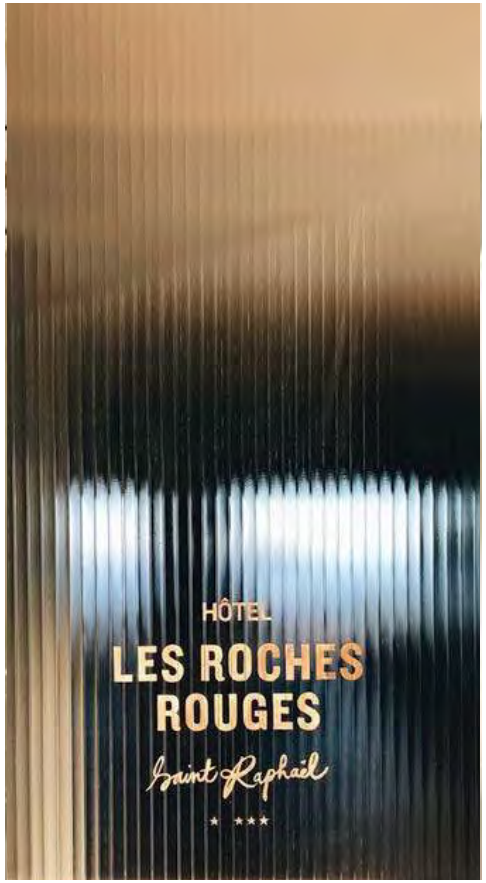
# THE TERRACE



## ANIMATING THE STREET

reinstating the European heart of Potts Point

outdoor seating




## SUBTLE SIGNAGE

gilded signage



## IMMERSIVE LUX

marble backdrop

geometric flooring



## INTERACTIVE

animating the street

connectivity to the neighbourhood












HÔTEL
LES ROCHES
ROUGES
Saint Raphaël
★ ★★★





# THE LOUNGE BAR

*With soaring ceilings and grand staircase, The Lounge feels as though it's been around since the golden '30s – despite its effortless contemporary decadence.*

*The best spot in the house to see and be seen. Late brunchers mingle with long lunchers settling in to make a night of it, in an all-day celebratory ambiance.*



# THE LOUNGE BAR





## HISTORIC SHELL

uplifting the shell

scale and volume

reinstatement of original autumnal carpet



## RICH MATERIALITY

light historic shell

introduction of dark intimate spaces

timber floors



## HOSPITALITY

soft marble curves

low level feature lighting

decadent display



## LOUNGE

to see or be seen

intimate or immersed

animating the grand staircase



















*It's early evening, cocktail hour. The Balcony fizzes and bubbles with indistinguishable conversations in a high-spirited crowd.*

*A sleek, sophisticated retreat from the vibrant buzz downstairs.*



# BALCONY BAR

# THE BALCONY BAR





## RICH MATERIALITY

dark material palette

immersive and intimate



## SCULPTURAL BAR

reflective chrome



## STORYTELLING

digital fresco telling the narrative of Minerva

poetic script on mirrors

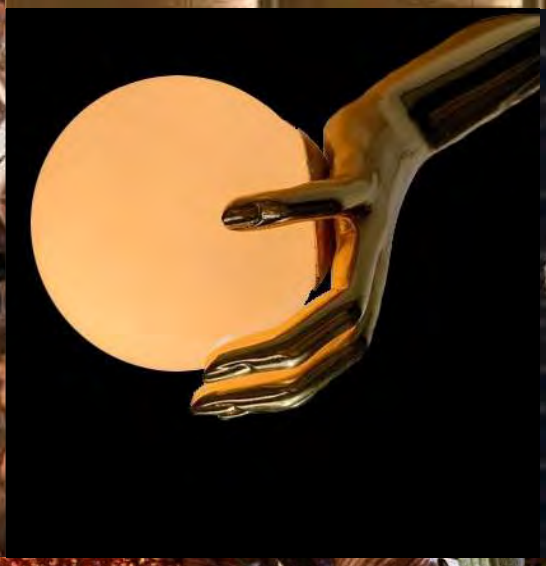


## LOUNGE

elevated lounge seating

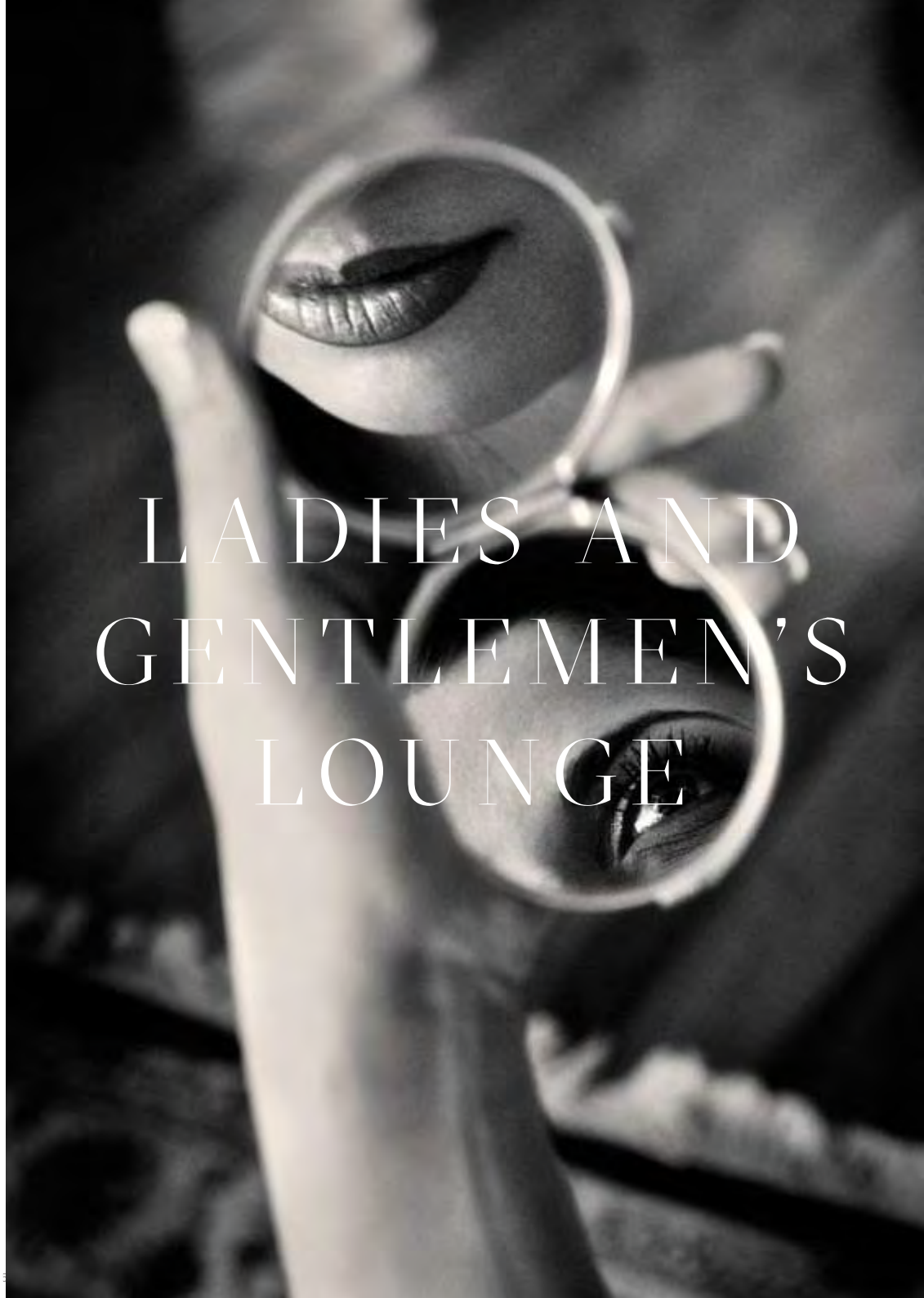
a sleek, sophisticated retreat





*A place for secrets, trysts, a pause before we get back to the party.*
*An elegant interlude that becomes a performance piece of its own.*
*Old meets new with a cinematic opulence;*
*timeless, glamorous and unexpected.*



# LADIES AND GENTLEMEN'S LOUNGE

# LADIES AND GENTLEMEN'S





## HISTORICAL LINEAGE

art deco glamour



## LUX MATERIALITY

immersive jarrah

black and white marble



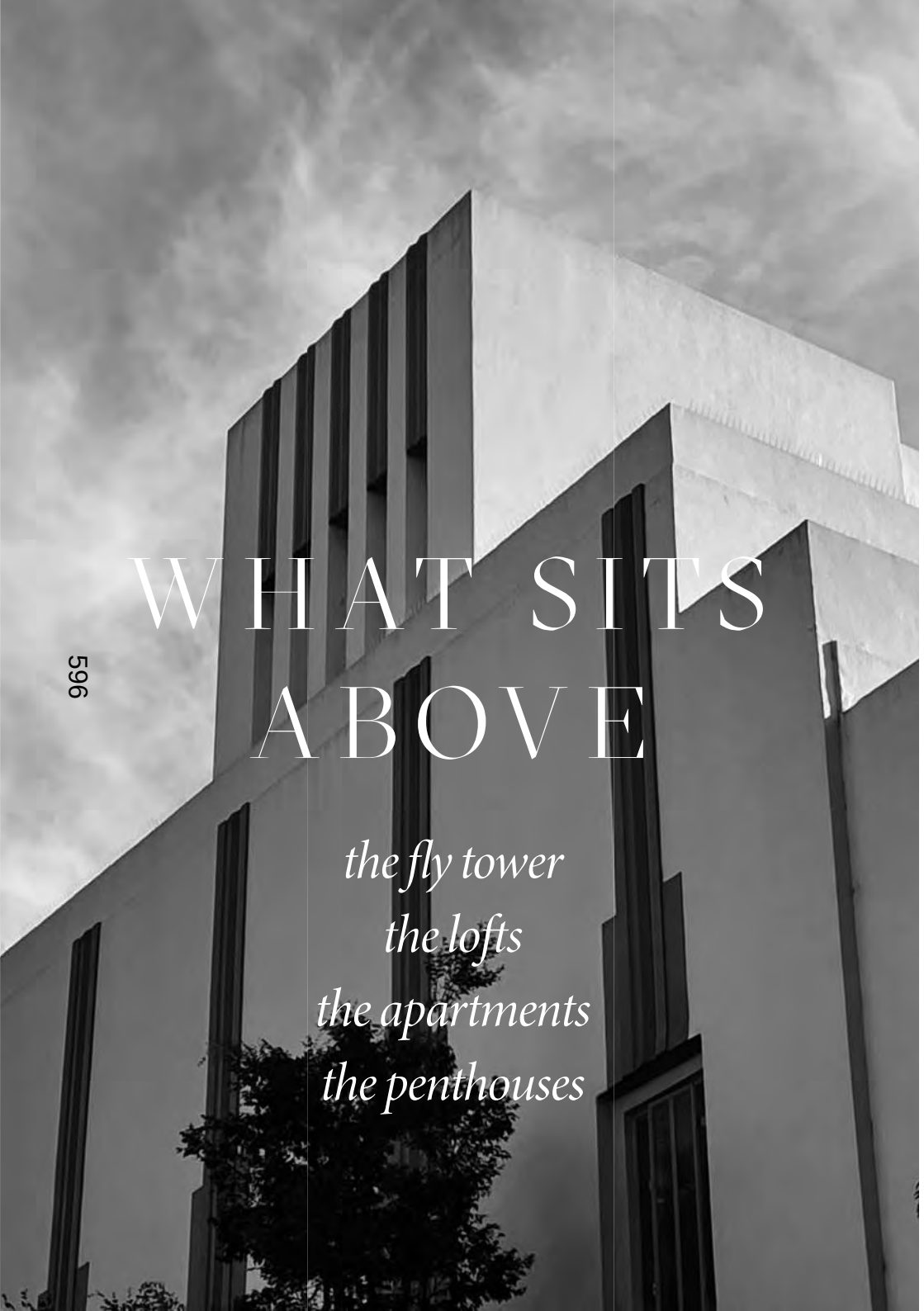
## THE UNEXPECTED

a layer of discovery



## DWELL

pause | connect



# WHAT SITS ABOVE

*the fly tower*
*the lofts*
*the apartments*
*the penthouses*





# AND WHAT SITS WITHIN

*the terrace*
*the minerva bar*
*supper club*
*mondaine*



CHOREOGRAPHING THE

# JOURNEY



598

# EXTRAVAGANT DECADENCE

*centre stage*



# MODERN LUXE

*behind the scenes*



SYDNEY ELEVATED

# THE ROOMS

599

*Step backstage into a dreamy scene for the artistic,*
*the effervescent, the eclectic.*
*Playful and surreal;*
*brimming with the magical alchemy*
*between story and experience.*





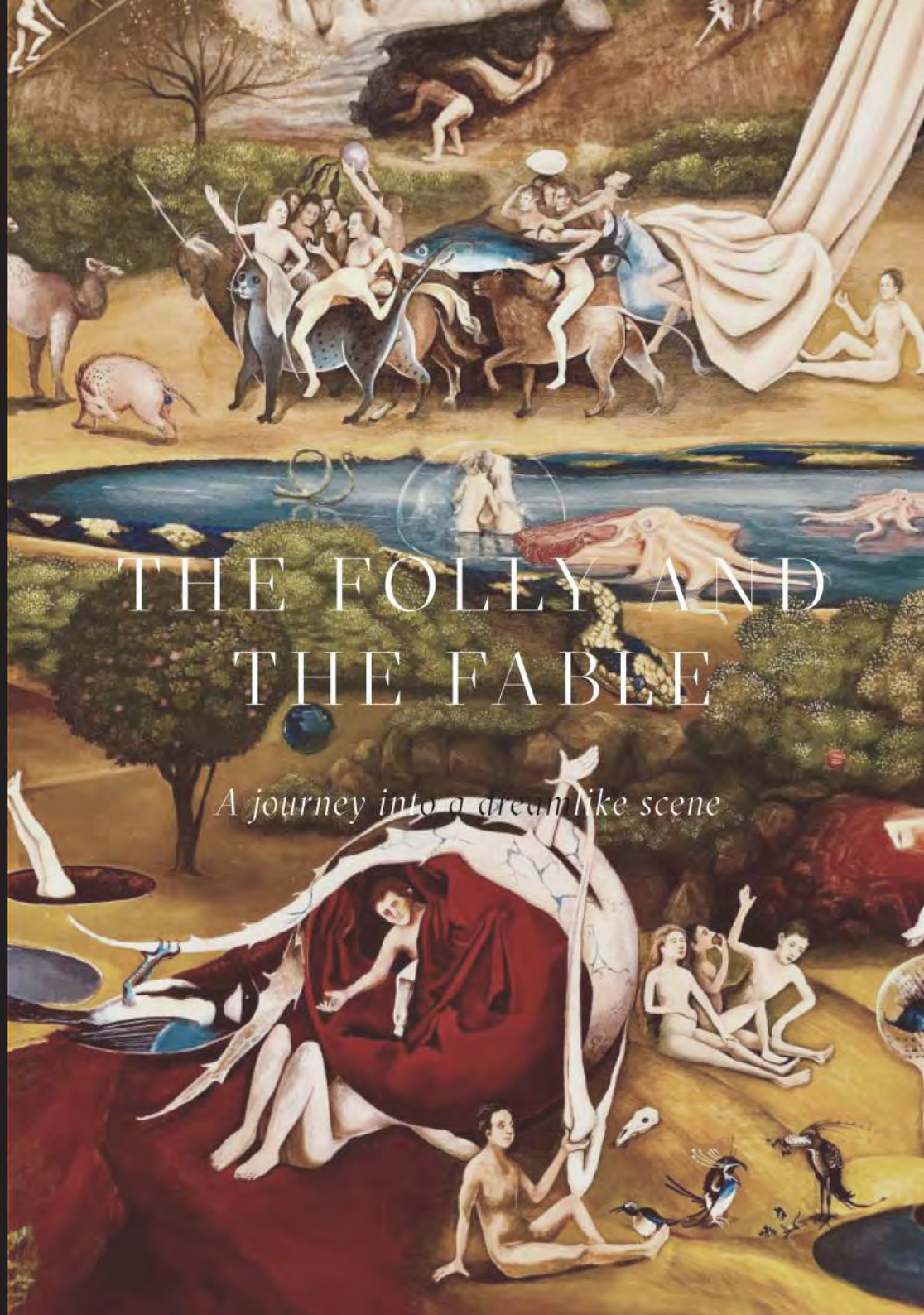
# THE FLY TOWER

*backstage*


... Indicative artwork to
flytower wall
BEHIND THE
SCENES
step backstage into a dreamy scene

*Be enveloped by a heady scene, flowing from floor to floor,*
*within to without.*
*An illuminated artwork with all the drama of performance,*
*slowly transforming in light from night to day.*
*Whimsical, charming, with a tiny spritz of mischief –*
*like the Vermouth in your gin.*





*Soaring spaces channeling all the glamour and grandeur*
*of the silver screen.*
*An ethereal escape of elegance and drama.*

603



# THE LOFTS

*grandeur of scale*



604

# ELEVATED

*an immersive experience*



# LIVING

*channeling the glamour of the silver screen*

# ELEVATED

*art deco flair*

605

MACLEAY
—REGIS

12

# LIVING

*with Sydney sophistication*



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Document is Restricted

Document is Restricted

# Item 5.

## Post Exhibition - Planning Proposal - 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge - Sydney Local Environmental Plan 2012 Amendment

**File No: X082392**

## Summary

This report follows the public exhibition of Planning Proposal: 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge to amend the Sydney Local Environmental Plan 2012 (Sydney LEP). The planning proposal was prepared by the City following a request from the University of Sydney (the landowner).

The planning proposal is to rezone 2 Arundel Street to MU1 Mixed Use, and 2A-8 and 6-12 Parramatta Road to R1 General Residential, both from SP2 Infrastructure (Educational). The rezoning is to facilitate disposal of the properties so that funds are available for other student housing projects.

The proposed zones are consistent with the surrounding context. The terrace properties are ordinary residential buildings that have been consistently used for a residential purpose over time. Their return to a residential zoning will not create any impact. The Mackie Building at 2 Arundel Street has a history of light industrial uses. Its rezoning to MU1 Mixed Use will support a range of uses on the property in future, including light industrial, commercial and residential uses. This is consistent with the mix of uses found in the surrounding area, including commercial uses, such as a five-storey commercial-use building at 71-79 Arundel Street, and residential uses along Arundel.

The planning proposal was approved for public exhibition by Council and the Central Sydney Planning Committee on 15 and 11 May 2023, respectively. Following receipt of the Gateway Determination from the Department of Planning and Environment on 23 June, the planning proposal was exhibited from 18 September to 17 October 2023.

Three submissions were received in response to exhibition and are considered in detail in this report. Key matters raised in the submissions are:

- the existing height control should be lowered;
- the Mackie Building at 2 Arundel Street should be rezoned residential rather than mixed use;
- concerns about hazards during construction;
- protection of the terrace buildings' heritage character; and
- the potential traffic congestion and parking impacts.

No changes are recommended to the planning proposal in response to submissions as the proposed zoning, and other controls, are consistent with neighbouring sites and any potential impacts from development will be managed through any development application.

This report recommends that the planning proposal be approved. If it is approved, then a request would be made to the Department of Planning and Environment to draft the amendment to the Land Zoning Map. A request to Parliamentary Counsel is not required because the amendment is only to mapping. The amendment would come into effect when the amended Land Zoning Map is published on the NSW Legislation website.

## Recommendation

It is resolved that:

(A) the Central Sydney Planning Committee note the three submissions received in response to the public exhibition of the Planning Proposal: 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge as described in this report;

(B) the Central Sydney Planning Committee approve the Planning Proposal: 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge, shown at Attachment A to the subject report, to be made as a local environmental plan under section 3.36 of the Environmental Planning and Assessment Act 1979; and

(C) authority be delegated to the Chief Executive Officer to make minor variations to the Planning Proposal: 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge to correct any minor errors prior to finalisation.

## Attachments

**Attachment A.** Planning Proposal - 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge

**Attachment B.** Resolutions of Council and the Central Sydney Planning Committee

**Attachment C.** Gateway Determination

## Background

1. This report follows the public exhibition of a planning proposal to amend the Sydney Local Environmental Plan 2012 (Sydney LEP) as it applies to the land at 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge. The subject sites are shown at Figure 1.

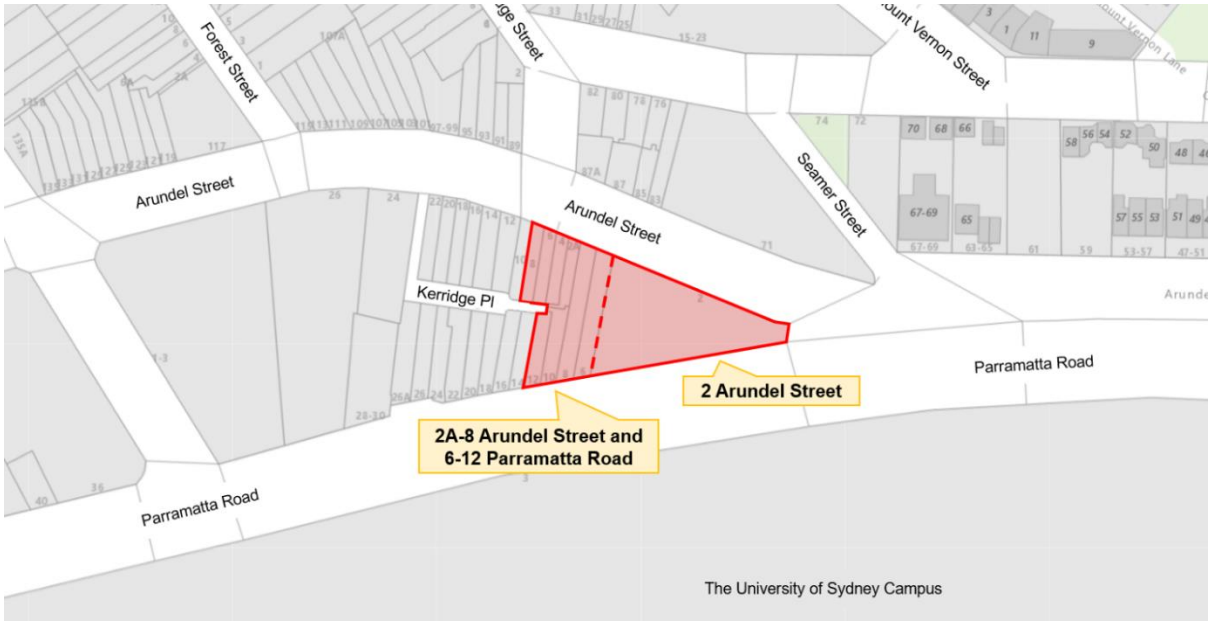


Figure 1. Indicative plan showing the site's location

2. Site details, current planning controls, proposed planning controls are described in the pre-exhibition report to the Transport, Heritage, Environment and Planning Committee and the Central Sydney Planning Committee (CSPC), available at: city.sydney/d4y.

3. The planning proposal was prepared in response to a request from the University of Sydney (the landowner). The planning proposal will rezone 2 Arundel Street (the Mackie Building) to MU1 Mixed Use, and 2A-8 Arundel Street and 6-12 Parramatta Road to R1 General Residential, both from SP2 Infrastructure (Education). The properties are Victorian terraces and a twentieth century commercial building repurposed for university uses. The planning proposal will only affect the site's zoning and makes no other changes to planning controls.

4. The planning proposal will allow a wider range of uses on the properties so their ongoing use is consistent with the surrounding residential neighbourhood and facilitate their sale by the University. Their current zoning, SP2 Infrastructure (Education) limits the land to educational uses and uses ordinarily incidental to education. This is useful for educational landowners as it facilitates development for educational purposes, however it is a significant limitation to the reasonable use of terrace houses and a commercial building by other owners.

5. In response to concerns raised by Council, correspondence from the University of Sydney, provided in an Information Relevant To Memorandum to Council and the Central Sydney Planning Committee in May 2023, notes that renovating or refurbishing the terraces that were previously used for student accommodation would be prohibitively expensive while providing a very limited amount of housing that would not meet contemporary standards for student accommodation. The rezoning facilitates the University's divestment of the properties in alignment with their Affordable Student Accommodation Strategy.

6. The University of Sydney also reiterated its ongoing commitment to increasing the amount of student accommodation around its main Darlington / Camperdown campus, noting that since 2015 the University has constructed 1,622 new student accommodation beds with rents set at a minimum of 25 per cent below market benchmarks.

7. Council and the Central Sydney Planning Committee (CSPC), at their meetings on 15 May 2023 and 11 May 2023 respectively, approved the planning proposal to be submitted to the Department of Planning and Environment (Department) for a Gateway Determination and for public authority consultation and public exhibition in accordance with any Gateway Determination conditions. Council and CSPC resolutions are shown at Attachment B.

8. This report recommends approval of the planning proposal to amend the Sydney Local Environmental Plan 2012. If approved, then a request would be made to the Department to publish the amendment to the Land Zoning Map. A request to Parliamentary Counsel is not required because the amendment is only to mapping. The amendment would come into effect when the amended Land Zoning Map is published on the NSW Legislation website.

## Gateway Determination

9. The Department issued a Gateway Determination for the planning proposal on 23 June 2023. The Gateway Determination is shown at Attachment C. It delegated plan-making authority to Council to prepare the amendment to the Land Zoning Map to be incorporated into the Sydney Local Environmental Plan 2012.

10. The Gateway Determination required the planning proposal be revised prior to exhibition, to include additional commentary on its consistency with section 9.1 Ministerial Direction 4.4 Remediation of Contaminated Land. Following receipt of additional contamination assessment supplied by the proponent, the planning proposal was revised under Chief Executive Officer delegation on 11 September 2023 following approval from the Department on 5 September 2023 for public exhibition. The additional contamination assessment information was included in the exhibition material.

11. The Gateway Determination required the public exhibition start by 23 August 2023. However, because of delays in receiving the proponent's additional contamination assessment, the planning proposal did not begin exhibition until 18 September 2023. Subsequent correspondence between the City and the Department confirmed that this condition would be waived and that a Gateway Alteration was not required.

## Public Exhibition

12. The planning proposal was publicly exhibited from 18 September to 17 October 2023, in accordance with the Gateway Determination and the City's Sydney Community Engagement Strategy and Participation Plan 2022.

13. The City sent 273 letters to owners and occupants of properties within 75 metres of the site, notifying them of the planning proposal's exhibition. The planning proposal was also advertised on the City's Sydney Your Say website and the NSW planning portal. The following local interest groups were also advised of the public exhibition and invited to make a submission:

    (a) Glebe Chamber of Commerce;

    (b) Coalition of Glebe Groups;

    (c) The Glebe Society; and

    (d) Forest Lodge and Glebe Coordination Group (FLAG).

14. One submission from the Glebe Society raised two concerns:

    (a) that the existing height control applied to the subject land, 12 metres, should be lowered to 9 metres to ensure that future development is in accordance with the objectives of the surrounding heritage conservation area; and

    (b) that 2 Arundel Street should be rezoned to R1 General Residential instead of MU1 Mixed Use, to reduce conflict with Arundel Street's residential character as well as potential adverse traffic impacts.

15. The existing height controls are consistent with the surrounding height controls. Figure 2 shows that other properties on the block, including west-adjoining terrace dwellings along Arundel Street, are all affected by a 12-metre height control. An exception is 26-30 Parramatta Road, which hosts a four-storey apartment building and has a higher control of 15 metres. Notwithstanding, the heritage controls applied to the land are not changed by this planning proposal and would be applicable considerations at the development application stage.

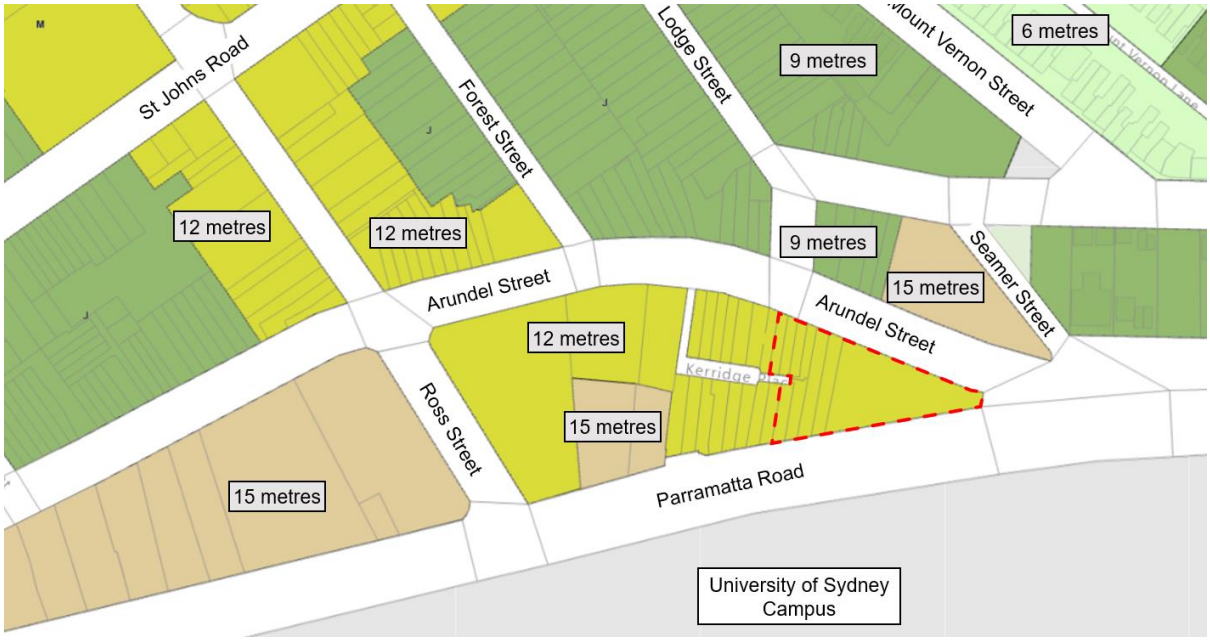


Figure 2. An indicative plan showing the site and surrounding height of building controls

16. The proposed zoning of the Mackie Building at 2 Arundel Street to MU1 Mixed Use is also consistent with the area. The building is currently used for offices by the University and featured other non-residential uses prior to the University occupation. A MU1 zoning will allow non-residential uses to continue and avoid creating exiting use rights. The proposed zoning will also allow residential uses which are currently not permitted. While other commercial uses will become permissible with the rezoning, this is compatible with surrounding uses and supports its integration with other commercial uses along Parramatta Road.

17. Figure 3 below shows a number of non-residential uses on the block, facilitated by the E3 Productivity Support zone that supports light industries, warehouses, and other land uses that meet the needs of businesses and industries. Figure 3 also highlights a number of nearby, non-residential uses within the surrounding R1 zone, indicating that nearby uses are not consistently used for dwellings.

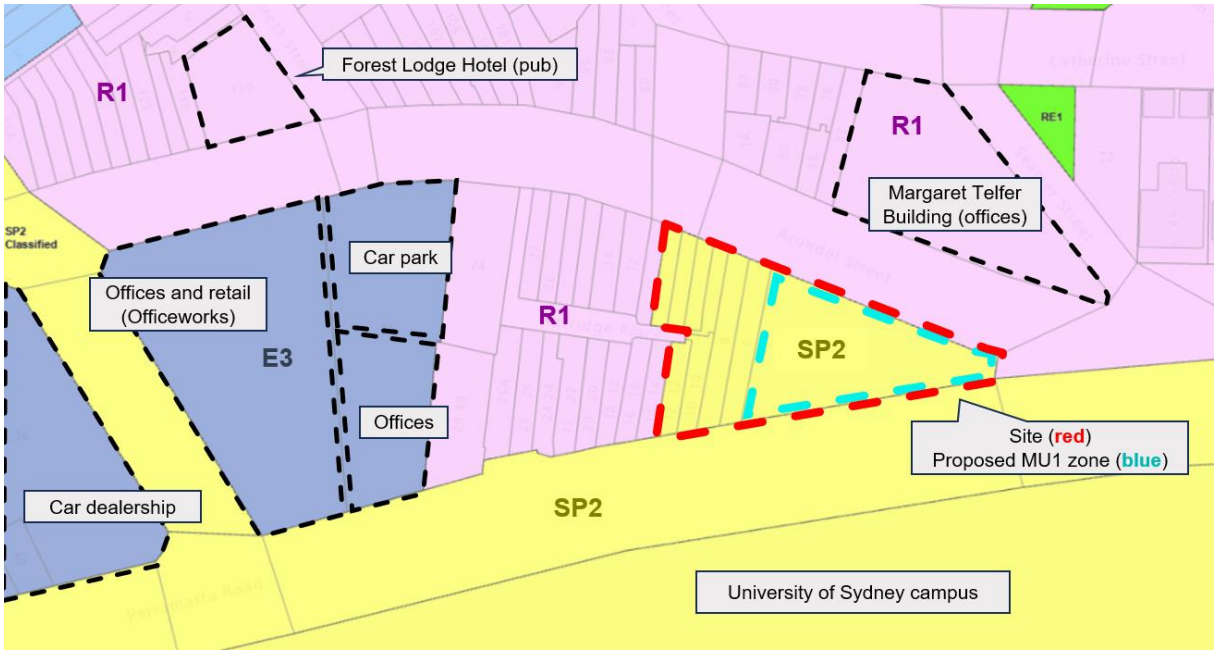


Figure 3. An indicative plan showing the site, surrounding zones, and non-residential uses (shown using black dashed lines)

18. The planning proposal does not increase the development potential of the sites and will therefore not significantly increase traffic or trip generation. Notwithstanding, any future development application will require detailed traffic assessment.

19. In addition to the submission from the Glebe Society, two were received from individuals. One of these supported the planning proposal. The other raised a number of concerns addressed below:

    (a) that lead paint on the terraces may cause hazards and trigger safe work requirements if the terraces are redeveloped or renovated.

    **Response:** Work health and safety legislation sets out the rules for working with a lead process, including removing lead paint.

    (b) that future renovation (in particularly external works such as additions) or redevelopment of the terrace buildings may adversely affect their heritage character and heritage character of the wider area.

    **Response:** This planning proposal does not change the development controls applied to the land. The planning proposal does not allow additional height or density and existing heritage controls which support the conservation of the terraces continue to apply.

    (c) that hazardous materials within the soil may be disturbed by future development.

    **Response:** A preliminary contamination assessment from the proponent concluded that the that the land's current configuration is low risk. Contamination will be assessed at the development stage under State Environmental Planning Policy (Resilience and Hazards) 2021.

(d) that an increased amount of "high-rise" development in the vicinity may worsen surrounding traffic congestion and overtax street parking supply.

**Response:** This planning proposal does not increase development densities permitted on the land and will not result in traffic or parking impacts.

(e) works or construction subsequent to this planning proposal would affect surrounding dwellings, via an increased presence of tradespeople, who would use up on-street parking.

**Response:** The impacts of construction, if the site is redeveloped, will be considered as part of a detailed development application. Tradespeople are subject to the City's parking polices and restrictions.

(f) that Kerridge Place, a laneway behind the terrace buildings, should be extended by Council acquiring private land, to form a loop and create a second connection with Arundel Street.

**Response:** Acquisition private sites in this block and extension of the lane is not identified in the infrastructure works lists of the City's contributions plans. Extension of the lane would have very limited benefit to the wider community.

20. The Gateway Determination required the Department of Education be consulted and given 30 working days to respond. However, the Department of Education confirmed that they would not lodge a submission in response to the planning proposal.

21. No post-exhibition changes to the planning proposal are recommended.

## Key Implications

### Strategic Alignment

22. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. The proposed planning controls are aligned with the strategic directions and objectives.

23. The proposed planning controls give effect to the liveability and productivity priorities in the Greater Sydney Commission's Greater Sydney Region Plan and Eastern City District Plan and the City's Local Strategic Planning Statement.

## Relevant Legislation

24. Environmental Planning and Assessment Act 1979.

25. Environmental Planning and Assessment Regulation 2021.

## Critical Dates / Time Frames

26. The Gateway Determination requires the planning proposal to be made by 23 January 2024.

27. The amendment to the Sydney Local Environmental Plan 2012 will come into effect when the amended Land Zoning Map is published on the NSW Legislation website.

**GRAHAM JAHN AM**

Director City Planning, Development and Transport

Ben Schneider, Cadet Planner

Tamara Bruckshaw, Manager Major Projects Planning

# Attachment A

**Planning Proposal – 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge**

CITY OF SYDNEY

# Planning Proposal – 2-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge



**Planning Proposal**
June 2023



The City of Sydney acknowledges the Gadigal of the Eora Nation as the Traditional Custodians of our local area.

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# Executive Summary

The City of Sydney (the City) has prepared this planning proposal for 2A and 2-8 Arundel Street and 6-12 Parramatta Road in Forest Lodge (the site) following a request from the owner, the University of Sydney (the University).

The University considers the site to be surplus to its requirements and wishes to sell it. Without rezoning, the site would be limited to an educational use as it is currently zoned SP2 Infrastructure (Educational Establishment). The purpose of this planning proposal is to allow non-university uses on the site by rezoning 2A-8 Arundel Street and 6-12 Parramatta Road to R1 General Residential, and 2 Arundel Street to MU1 Mixed Use. This planning proposal will not affect any other controls in the Sydney Local Environmental Plan 2012 (Sydney LEP).

The proposed rezoning to R1 General Residential at 2A-8 Arundel Street and 6-12 Parramatta Road (the terrace properties) is consistent with surrounding area's residential use and character. as well as the existing development being a number of previously residential use terrace houses. Rezoning 2 Arundel Street (the office building) to MU1 Mixed Use is consistent with the existing use of the building.

This planning proposal has been prepared in accordance with s3.33 of the Environmental planning and Assessment Act 1979 and the Department of Planning and Environment's Guide to Preparing Planning Proposals and Guide to Preparing Local Environmental Plans.

# 1. Background

## 1.1 Landowner request

In June 2021 the University submitted a request to prepare a planning proposal for the site, included as Attachment A1 to this planning proposal. The request includes further justification for the rezoning request. The City has prepared this planning proposal following a consideration of the request and accompanying report.

## 1.2 Site identification

This planning proposal relates to the properties 2A and 2-8 Arundel Street and 6-12 Parramatta Road in Forest Lodge. The legal descriptions and basic qualities of the properties are provided below in Table 1.

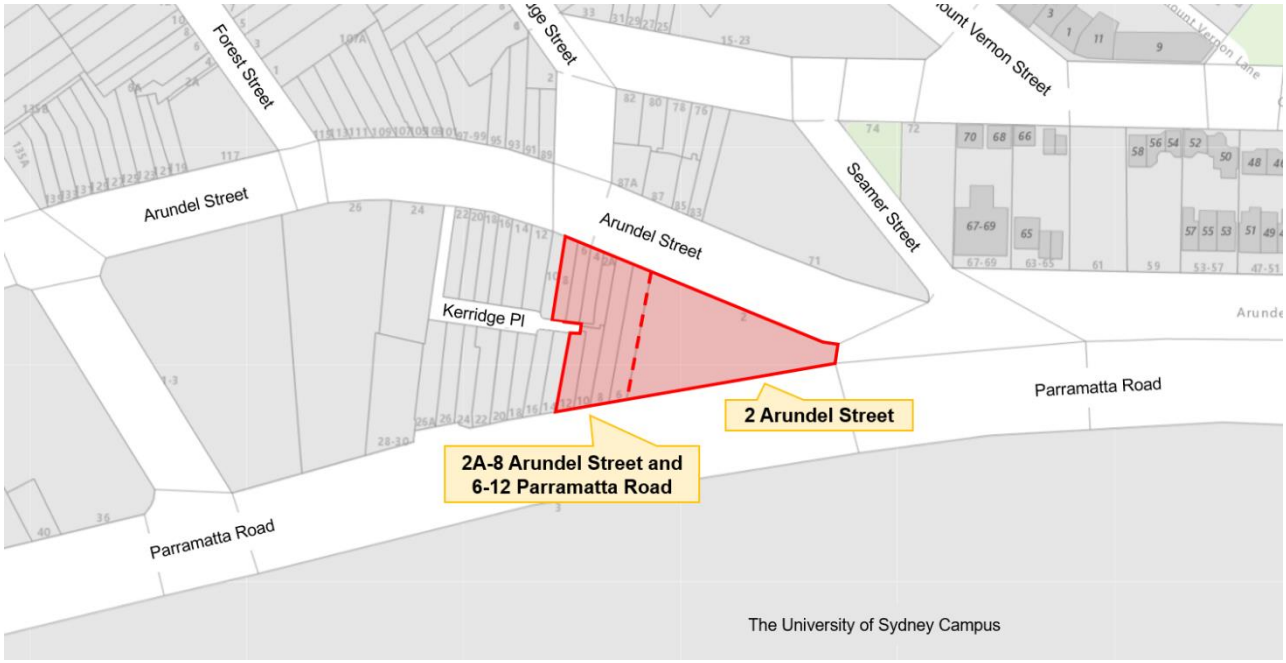
## Table 1. Legal descriptions and basic qualities of the affected properties

| Address | Legal description | Area (sqm) | Existing Development |
|---|---|---|---|
| 2 Arundel St | Lots 3-6 DP 979837 and Lot 7 DP 78194 | 1393.2 | Two storey cream brick, Art Deco style office building |
| 2A Arundel St | Lot E1 DP 439229 | 94.9 | Two storey terrace house |
| 4 Arundel St | Lot D1 DP 439229 | 94.9 | Two storey terrace house |
| 6 Arundel St | Lot C1 DP 439229 | 101.2 | Two storey terrace house |
| 8 Arundel St | Lot B1 DP 439229 | 101.2 | Two storey terrace house |
| 6 Parramatta Rd | Lot 1 DP 979837 | 251.0 | Two storey house |
| 8 Parramatta Rd | Lot 1 DP 90215 | 234.0 | Two storey house |
| 10 Parramatta Rd | Lot K1 DP 439229 | 132.8 | Two storey terrace house |
| 12 Parramatta Rd | Lot J1 DP 439229 | 120.2 | Two storey terrace house |

## 1.3 Site location

The site and the locality is shown at Figure 1.

## Figure 1. Indicative plan showing the site's location and locality




The properties at 6 to 12 Parramatta Road are located above the Parramatta Road retaining wall, along a narrow pedestrian walkway. The walkway can be accessed via Chapman Stairs from Parramatta Road or from the intersection of Arundel Street with Parramatta Road.

The properties are located within Forest Lodge, in close proximity to Central Sydney. The area north of the site is predominantly residential and development is characterised by typical Victorian one and two storey terrace houses. The area south of the site, across Parramatta Road, is the University of Sydney campus. The properties form an acute triangle shape at the intersection of Parramatta Road and Arundel Street. The context is shown in Figure 2 below.

## Figure 2. Site context and suburb boundaries



# 2. Current planning controls

## 2.1 Zoning

The properties are currently zoned SP2 Infrastructure (Educational Establishment) in the Sydney LEP. Permissible uses within this zone are limited to the purpose shown on the Land Zoning Map, being for an education establishment, or any development ordinarily incidental or ancillary for that purpose.

## 2.2 Development controls

This planning proposal will not change any development controls applied to the site. Existing development controls are applied to the site using principal development standards at Part 4 of the Sydney LEP and the Sydney Development Control Plan 2012 (Sydney DCP).

The existing maximum building height across the properties is 12 metres in Sydney LEP.

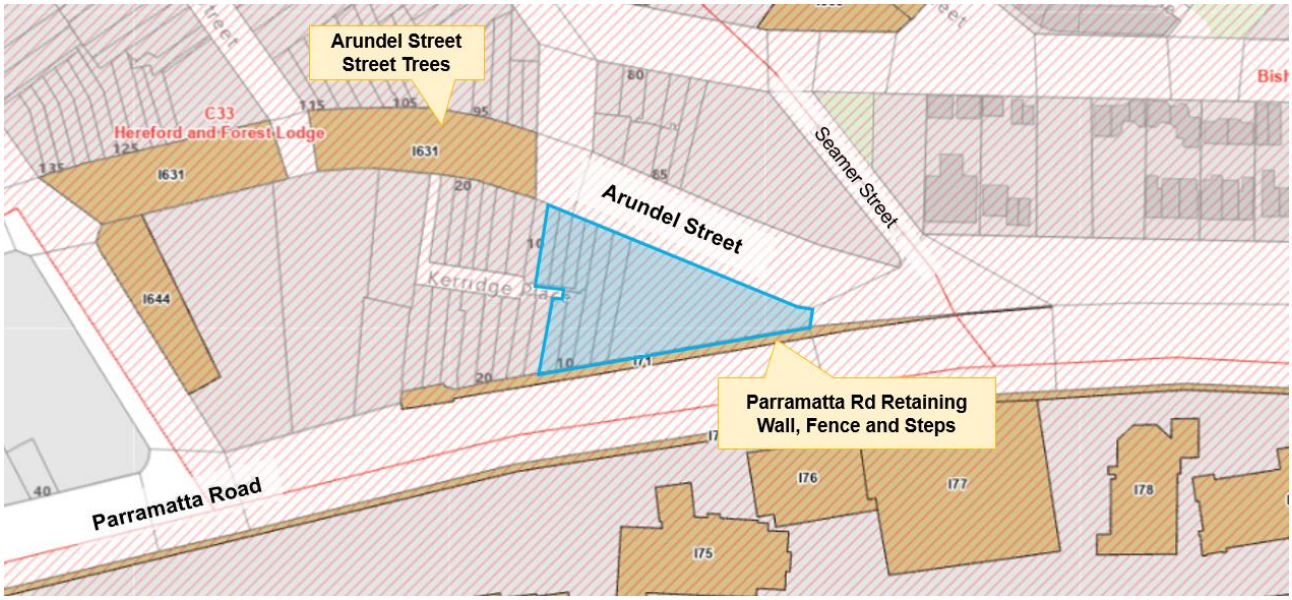
The existing floor space ratio (FSR) for 2 Arundel Street is 1.5:1.

The existing FSR for the remaining properties is 1.25:1.

## 2.3 Heritage

The properties are located within the Hereford and Forest Lodge Heritage Conservation Area (ref C33). None of the properties are identified as heritage items in Sydney LEP. The location of nearby heritage items and the boundaries of the conservation area are shown below in Figure 3.

## Figure 3. Indicative plan showing the locations of heritage items and the boundary of the heritage conservation area



# 3. Objectives and intended outcomes

The objective and intended outcome of this planning proposal is to rezone properties currently owned by the University, in accordance with the following:

– Rezoning the properties at 2A, 4, 6, and 8 Arundel Street and 6, 8, 10 and 12 Parramatta Road to R1 Residential from SP2 Infrastructure (Educational Establishment),

– Rezoning the property at 2 Arundel Street is zoned to MU1 Mixed Use from SP2 Infrastructure (Educational Establishment).

# 4. Explanation of provisions

To achieve the intended outcomes it is proposed to amend sheet LZN_009 of the Land Zoning Map be made so that the properties are rezoned from SP2 Infrastructure (Educational) to R1 residential for the terrace properties, and MU1 Mixed Use for the office building.

## Table 2. Land use zone changes

| Address | Current land use zone | Proposed land use zone |
|---|---|---|
| 2 Arundel St | SP2 Infrastructure (Educational Establishment) | MU1 Mixed Use |
| 2A Arundel St | SP2 Infrastructure (Educational Establishment) | R1 General Residential |
| 4 Arundel St | SP2 Infrastructure (Educational Establishment) | R1 General Residential |
| 6 Arundel St | SP2 Infrastructure (Educational Establishment) | R1 General Residential |
| 8 Arundel St | SP2 Infrastructure (Educational Establishment) | R1 General Residential |
| 6 Parramatta Rd | SP2 Infrastructure (Educational Establishment) | R1 General Residential |
| 8 Parramatta Rd | SP2 Infrastructure (Educational Establishment) | R1 General Residential |
| 10 Parramatta Rd | SP2 Infrastructure (Educational Establishment) | R1 General Residential |
| 12 Parramatta Rd | SP2 Infrastructure (Educational Establishment) | R1 General Residential |

# 5. Justification

The purpose of this planning proposal is to allow non-university related uses on the properties, by rezoning the terrace properties to R1 Residential and the office building to MU1 Mixed Use, both from SP2 Infrastructure (Educational Establishment). Without a change to the zoning, the use of the land would be limited to educational establishment or related uses. The proposal is considered to be of minor strategic impact.

## Strategic merit

**City Plan 2036**

The properties are outside the City Fringe and the Eastern Creative Precinct, and are not specifically identified for either housing or jobs growth in City Plan 2036. This proposal would allow the properties to maintain their current uses as a mix of housing and office premises but without the requirement to be linked to an educational establishment. University uses will remain prominent in the area due to the proximity to the Camperdown campus of Sydney University. The proposal is not considered strategically significant. It is not inconsistent with City Plan 2036.

**Eastern City District Plan 2018**

This proposal would allow the properties to maintain their current uses as a mix of housing and office premises but without the requirement to be linked to an educational establishment. University uses will remain prominent in the area due to the proximity to the Camperdown campus of Sydney University. This planning proposal is not considered strategically significant and is not inconsistent with the goals and priorities of the Eastern City District Plan 2018 (ECDP).

## Site-specific merit

The planning proposal will not result in any significant change to the use of the land, or the intensity of that use. It will allow residential, and office uses that are not connected to an educational establishment. University uses will remain prominent in the area due to the proximity to the Camperdown campus of Sydney University.

The proposed uses for the terrace house properties at 2A to 8 Arundel Street and 6 to 12 Parramatta Road complement the existing R1 General residential land use zone that exists along much of Arundel Street and most of Forest Lodge. The properties are all residential and previously used for University student accommodation purposes. They are currently vacant and require substantial maintenance to be suitable for accommodation use. Their change to a general residential use will not conflict the existing Forest Lodge area or the existing residential character of Arundel Street.

The proposed rezoning of 2 Arundel Street from SP2 Infrastructure (Educational Establishments) to a B4 Mixed Use zone will:

– Be consistent with the existing University office use already existing on that property and building, and which was originally designed for offices/storage;
– Complement the University office use of the 4-storey Margaret Telfer building directly opposite this site at 71-79 Arundel Street (junction of Arundel and Seamer Streets); and

– Allow for a commercial adaptive reuse or a residential conversion of the existing building. Neither proposed use is inconsistent with current uses operating either on the site (commercial office) or within the street (residential).

## Section A – Need for the planning proposal

| Question | City response |
|---|---|
| Q1. Is the planning proposal a result of any strategic study or report? | The planning proposal is not the result of any specific strategic work. It is not considered strategically significant and is not inconsistent with the City's strategies including City Plan 2036, and Sustainable Sydney 2030-50. |
| Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way? | Yes, the main objective of this planning proposal is to remove the requirement that the use of the land be limited to educational establishments. A planning proposal is required to change the zoning which requires an educational establishment use. |

## Section B1 – Relationship to the strategic planning framework

| Question | City response |
|---|---|
| Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and the exhibited draft strategies)? | Yes. The Greater Sydney Region Plan and the Eastern District City Plan are both prepared by the NSW Government and are the regional plans relevant to the site.<br>This planning proposal is of minor strategic significance and is not inconsistent with the objectives and actions of these strategies. |
| Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan? | Yes. The City's vision for land use and planning is set out within City Plan 2036, the City's local strategic planning statement, and Sustainable Sydney 2030-2050. The site is not identified for housing or jobs growth in either of these strategies.<br>This planning proposal is of minor strategic significance and is not inconsistent with the objectives and actions of these strategies. |
| Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs). | Yes, the planning proposal is consistent with applicable SEPPs. See section B2. |
| Q6. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)? | Yes, the planning proposal is consistent with applicable Ministerial Directions. See section B3. |

## Section B2 – Assessment of planning proposal against applicable SEPPs

| SEPP | Comment |
|---|---|
| SEPP (Biodiversity and Conservation) 2021 | This planning proposal is consistent. |
| SEPP (Building Sustainability Index: BASIX) 2004 | Not applicable to this proposal. |
| SEPP (Exempt and Complying Development Codes) 2008 | This planning proposal is consistent. |
| SEPP (Housing) 2021 | This planning proposal is consistent. |
| SEPP (Industry and Employment) 2021 | This planning proposal is consistent. |
| SEPP (Planning Systems) 2021 | This planning proposal is consistent. |
| SEPP (Precincts–Central River City) 2021 | Not applicable to this proposal. |
| SEPP (Precincts–Eastern Harbour City) 2021 | This planning proposal is consistent. |
| SEPP (Precincts–Regional) 2021 | Not applicable to this proposal. |
| SEPP (Precincts–Western Parkland City) 2021 | Not applicable to this proposal. |
| SEPP (Primary Production) 2021 | Not applicable to this proposal |
| SEPP (Resilience and Hazards) 2021 | This planning proposal is consistent. |
| SEPP (Resources and Energy) 2021 | This planning proposal is consistent |
| SEPP No 65 - Design Quality of Residential Flat Development | Not applicable to this proposal. |
| SEPP (Transport and Infrastructure) 2021 | This planning proposal is consistent |

## Section B3 – Assessment of planning proposal against applicable Ministerial Directions

| Ministerial Direction | Response |
|---|---|
| Ministerial Direction 1.1<br>Implementation of Regional Plans | Consistent. The planning proposal will give effect to objectives and priorities of the Greater Sydney Region Plan per the response to Q3 above. |
| Ministerial Direction 1.2 | Not applicable. |

| Ministerial Direction | Response |
|---|---|
| Development of Aboriginal Land Council Land | |
| Ministerial Direction 1.3<br>Approval and Referral Requirements | Consistent. The planning proposal does not include provisions that require the concurrence, consultation or referral of any future development application to a Minister or public authority. Future development in accordance with the proposed amendments will not be designated development. |
| Ministerial Direction 1.4<br>Site Specific Provisions | Consistent. The planning proposal will not further restrict the range of uses permissible on the site. Rather, it seeks to remove an existing zoning that is restrictive and could prevent suitable uses from occurring on the site. |
| Ministerial Direction 1.5<br>Parramatta Road Urban Transformation Strategy | Not applicable. |
| Ministerial Direction 1.6<br>Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan | Not applicable. |
| Ministerial Direction 1.7<br>Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | Not applicable. |
| Ministerial Direction 1.8<br>Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | Not applicable. |
| Ministerial Direction 1.9<br>Implementation of Glenfield to Macarthur Urban Renewal Corridor | Not applicable. |
| Ministerial Direction 1.10<br>Implementation of the Western Sydney Aerotropolis Plan | Not applicable. |
| Ministerial Direction 1.11<br>Implementation of Bayside West Precincts 2036 Plan | Not applicable. |

| Ministerial Direction | Response |
|---|---|
| Ministerial Direction 1.12<br>Implementation of Planning Principles for the Cooks Cove Precinct | Not applicable. |
| Ministerial Direction 1.13<br>Implementation of St Leonards and Crows Nest 2036 Plan | Not applicable. |
| Ministerial Direction 1.14<br>Implementation of Greater Macarthur 2040 | Not applicable. |
| Ministerial Direction 1.15<br>Implementation of the Pyrmont Peninsula Place Strategy | Not applicable. |
| Ministerial Direction 1.16<br>North West Rail Link Corridor Strategy | Not applicable. |
| Ministerial Direction 1.17<br>Implementation of the Bays West Place Strategy | Not applicable. |
| 1.18 Implementation of the Macquarie Park Innovation Precinct | Not applicable. |
| Ministerial Direction 1.19<br>Implementation of the Westmead Place Strategy | Not applicable. |
| Ministerial Direction 1.20<br>Implementation of the Camellia-Rosehill Place Strategy | Not applicable. |
| Ministerial Direction 1.21<br>Implementation of the South West Growth Area Structure Plan | Not applicable. |
| Ministerial Direction 1.22<br>Implementation of the Cherrybrook Station Place Strategy | Not applicable. |
| Ministerial Direction 3.1<br>Conservation Zones | Not applicable. |

| Ministerial Direction | Response |
|---|---|
| Ministerial Direction 3.2<br>Heritage Conservation | Consistent. The affected properties are not heritage items and the planning proposal does not alter existing heritage controls applied to the site. Any development application subsequent to this planning proposal will be subject to a detailed heritage assessment, if required. |
| Ministerial Direction 3.3<br>Sydney Drinking Water Catchments | Not applicable. |
| Ministerial Direction 3.4<br>Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs | Not applicable. |
| Ministerial Direction 3.5<br>Recreation Vehicle Area | Not applicable. |
| Ministerial Direction 3.6<br>Strategic Conservation Planning | Not applicable. |
| Ministerial Direction 3.7<br>Public Bushland | Not applicable. |
| Ministerial Direction 3.8<br>Willandra Lakes Region | Not applicable. |
| Ministerial Direction 3.9<br>Sydney Harbour Foreshores and Waterways Area | Not applicable. |
| Ministerial Direction 3.10<br>Water Catchment Protection | Not applicable. |
| Ministerial Direction 4.1<br>Flooding | Consistent. The site is not located on flood affected land. |
| Ministerial Direction 4.2<br>Coastal Management | Not applicable. |
| Ministerial Direction 4.3<br>Planning for Bushfire Protection | Not applicable. |
| Ministerial Direction 4.4<br>Remediation of Contaminated Land | The land at 2A-8 Arundel Street and 6-12 Parramatta Road has been historically used for residential purposes (student accommodation), effectively functioning as residentially zoned land. The land at 2 Arundel Street (the Mackie |

| Ministerial Direction | Response |
|---|---|
| | building) is currently used for commercial purposes, consistent with a mixed use zoning.<br><br>Notwithstanding this, the proposed zoning changes, that may facilitate residential uses on a portion of the site that has been more recently used for commercial uses, requires assessment against the Ministerial Direction 4.4<br><br>A Preliminary Site Investigation (the Investigation) has been submitted by the proponent, to satisfy to a Gateway condition that required further assessment against this direction.<br><br>*On-site contamination*<br><br>The Investigation determines that the main potential source of contamination is the former Consolidated Neon business which operated at the site in the location of the existing Mackie building, though notes different industrial uses may have occurred on the site before Consolidated Neon.<br><br>The Investigation concludes that the potential contaminants from the historic use as a neon signs manufactory are low risk.<br><br>*Off-site contamination*<br><br>The Investigation states that there are no premises within 500m of the site that have been notified to the NSW EPA as a contaminated site under Section 60 of the Contaminated Land Management Act 1997 (NSW).<br><br>Notwithstanding, a number of historical uses in the surrounding area that may have contributed to contamination are identified (p10). These include:<br><br>• Grace Bros. Service Station, Corner Parramatta Road and Ross Street, Forest Lodge (Motor Garage, 1948-1976, 100m northwest).<br>• Lanham's Laundry Pty Ltd, 3 Forest Street Forest Lodge (Dry Cleaner, Presser or Dryer, 1948-1986, 81m west).<br><br>The Investigation determines that there is a low risk of on-site contamination and a low risk of contamination from offsite sources (p13).<br><br>*Conclusion*<br><br>Subject to 1(b) of the Ministerial Direction, the city notes the low risk of contaminants identified in the report and is satisfied that a more detailed study will be lodged with any future development application to use the site for residential purposes. The land will need to be appropriately remediated at that time to a standard that is appropriate for the proposed use. |
| Ministerial Direction 4.5<br><br>Acid Sulfate Soils | Consistent. The site is located on land identified as Class 5 Acid Sulfate Soils as per the Acid Sulfate Soils Map in the LEP. The nearest Class 3 area to the site is located 550m to |

| Ministerial Direction | Response |
|---|---|
| | its west, at Orphan School Creek. The nearest Class 2 area to the site is located 890m to its east, in Ultimo at the intersection of Smail and Mountain Streets.<br><br>Most of the properties on the site have been used residentially as student accommodation.<br><br>The planning proposal is accompanied by a Preliminary Site Investigation that included a review of acid sulfate soils, which determined that there was a low probability of acid sulfate soils occurring on the site.<br><br>A detailed Geotechnical Statement will accompany the detailed development application. The Statement will appropriately respond to the presence of acid sulfate soils, as well as detail how works will avoid their disturbance or impact on sensitive uses. |
| Ministerial Direction 4.6<br><br>Mine Subsidence and Unstable Land | Not applicable. |
| Ministerial Direction 5.1<br><br>Integrating Land Use and Transport | Consistent. The site is located in an area that is well serviced by existing public and private transport options.<br><br>Additionally, the rezoning will not affect the extent to which the site's use may be intensified. As such it will not contribute to increased use of transport infrastructure. |
| Ministerial Direction 5.2<br><br>Reserving Land for Public Purpose | Not applicable. |
| Ministerial Direction 5.3<br><br>Development Near Regulated Airports and Defence Airfields | Not applicable. |
| Ministerial Direction 5.4<br><br>Shooting Ranges | Not applicable. |
| Ministerial Direction 6.1<br><br>Residential Zones | Consistent. The planning proposal will return the terrace properties to a general residential zoning, and in doing so will contribute to the housing stock in the area. |
| Ministerial Direction 6.2<br><br>Caravan Parks and Manufactured Home Estates | Not applicable. |
| Ministerial Direction 7.1<br><br>Business and Industrial Zones | Consistent. The planning proposal will rezone the office building to mixed use, allowing subsequent owners to create commercial uses should they determine to do so. |
| Ministerial Direction 7.2 | Not applicable. |

| Ministerial Direction | Response |
|---|---|
| Reduction in non-hosted short-term rental accommodation period | |
| Ministerial Direction 7.3<br>Commercial and Retail Development along the Pacific Highway, North Coast | Not applicable. |
| Ministerial Direction 8.1<br>Mining, Petroleum Production and Extractive Industries | Not applicable. |
| Ministerial Direction 9.1<br>Rural Zones | Not applicable. |
| Ministerial Direction 9.2<br>Rural Lands | Not applicable. |
| Ministerial Direction 9.3<br>Oyster Aquaculture | Not applicable. |
| Ministerial Direction 9.4<br>Farmland of State Regional Significance on the NSW Far North Coast | Not applicable. |

## Section C – Environmental, social and economic impact

| Question | City response |
|---|---|
| Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal? | No. The planning proposal will not result in any significant change to the use of the land, or the intensity of that use. |
| Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed? | No. The planning proposal will not result in any significant change to the use of the land, or the intensity of that use. |
| Q9. Has the planning proposal adequately addressed any social and environmental effects? | The planning proposal will not result in any significant change to the use of the land, or the intensity of that use. No social or environmental effects are likely as an outcome of this proposal. |

## Section D – State and Commonwealth interests

| Question | City response |
|---|---|
| Q10. Is there adequate public infrastructure for the planning proposal? | Yes, there is adequate public infrastructure to support this planning proposal. It is noted that this planning proposal would not change the intensity of use on the properties. |
| Q11. What are the views of the State and Commonwealth public authorities consulted in accordance with the Gateway determination? | The Gateway Determination will identify the public authorities to be consulted as part of the planning proposal process and any views expressed will be included in this planning proposal following consultation. Formal consultation has not yet commenced. |

# 6. Mapping

Figure 4 below is indicative of how this planning proposal would amend sheet LZN_009 of the Land Zoning Map as adopted by the Sydney LEP.

## Figure 4. Existing and proposed zoning for the site



# 7. Community consultation

This planning proposal is to be exhibited in accordance with the Gateway Determination once issued by the Department of Planning and Environment.

It is anticipated that the Gateway Determination will require public exhibition for a period of not less than 20 working days in accordance with the Environmental Planning and Assessment Act 1979 and s4.5 of the Department's guide to Preparing Local Environmental Plans.

Notification of the public exhibition will be consistent with the Gateway Determination and the City's Community Participation Plan. This will include publication on the City of Sydney website and notification via letters to surrounding owners and occupiers.

Consultation with relevant NSW agencies, authorities, and other referred entities will be undertaken if and where needed and in accordance with the Gateway Determination.

# 8. Project timeline

The anticipated timeline for the completion of the planning proposal is as follows:

| Stage | Timeframe |
|---|---|
| Commencement / Gateway Determination | June 2023 |
| Government agency consultation | July 2023 |
| Public exhibition | July 2023 |
| Consideration of submissions | August-September 2023 |
| Post-exhibition consideration of proposal | October 2023 |
| Draft and finalise LEP | November-December 2023 |
| LEP made | January 2024 |
| Plan forwarded to the Department of Planning and Environment for notification | January 2024 |



# Attachment B

**Resolutions of Council and the Central Sydney Planning Committee**

# Resolution of Council

**15 May 2023**

**Item 8.4**

**Public Exhibition - Planning Proposal - 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge, 90 and 100-104 Brougham Street, Potts Point, and 85-93 Commonwealth Street, Surry Hills - Sydney Local Environmental Plan 2012 Amendment**

It is resolved that:

(A) Council approve the Planning Proposal - 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge as shown at Attachment A to the subject report:

(i) for submission to the Department of Planning and Environment with a request for Gateway Determination; and

(ii) for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;

(B) Council approve the Planning Proposal - 90 and 100-104 Brougham Street, Potts Point as shown at Attachment B to the subject report:

(i) for submission to the Department of Planning and Environment with a request for Gateway Determination; and

(ii) for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;

(C) Council approve the Planning Proposal - 85-93 Commonwealth Street, Surry Hills, as shown at Attachment C to the subject report:

(i) for submission to the Department of Planning and Environment with a request for Gateway Determination; and

(ii) for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;

(D) Council seek authority from the Department of Planning and Environment to exercise the delegation of all the functions under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect Planning Proposals: 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge; 90 and 100-104 Brougham Street, Potts Point; and 85-93 Commonwealth Street, Surry Hills; and

(E) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposals: 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge; 90 and 100-104 Brougham Street, Potts Point; and 85-93 Commonwealth Street, Surry Hills, to correct any drafting errors or to ensure consistency with the Gateway Determination.

Clause (A) was carried on the following show of hands:

Ayes (7) The Chair (the Lord Mayor), Councillors Davis, Gannon, Jarrett, Kok, Scott and Worling

Noes (2) Councillors Ellsmore and Weldon.

Clauses (B) to (E) were carried unanimously.

X082392

# Resolution of Central Sydney Planning Committee

## 11 May 2023

## Item 6

**Public Exhibition - Planning Proposal - 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge, 90 and 100-104 Brougham Street, Potts Point, and 85-93 Commonwealth Street, Surry Hills - Sydney Local Environmental Plan 2012 Amendment**

Moved by the Chair (the Lord Mayor), seconded by Councillor Kok –

It is resolved that:

(A) the Central Sydney Planning Committee approve the Planning Proposal - 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge as shown at Attachment A to the subject report:

(i) for submission to the Department of Planning and Environment with a request for Gateway Determination; and

(ii) for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;

(B) the Central Sydney Planning Committee approve the Planning Proposal - 90 and 100-104 Brougham Street, Potts Point as shown at Attachment B to the subject report:

(i) for submission to the Department of Planning and Environment with a request for Gateway Determination; and

(ii) for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;

(C) the Central Sydney Planning Committee approve the Planning Proposal - 85-93 Commonwealth Street, Surry Hills, as shown at Attachment C to the subject report:

(i) for submission to the Department of Planning and Environment with a request for Gateway Determination; and

(ii) for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;

(D) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage, Environment and Planning Committee on 8 May 2023 that Council seek authority from the Department of Planning and Environment to exercise the delegation of all the functions under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect Planning Proposals: 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge; 90 and 100-104 Brougham Street, Potts Point; and 85-93 Commonwealth Street, Surry Hills; and

(E) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposals: 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge; 90 and 100-104 Brougham Street, Potts Point; and 85-93 Commonwealth Street, Surry Hills, to correct any drafting errors or to ensure consistency with the Gateway Determination.

Carried unanimously.

X082392

# Attachment C

## Gateway Determination

# Gateway Determination

***Planning proposal (Department Ref: PP-2023-784)**: to amend the land use zones for 2, 2A, 4, 6 and 8 Arundel Street and 6, 8, 10 and 12 Parramatta Road, Forest Lodge.*

I, the Director, City of Sydney and Eastern District at the Department of Planning and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Sydney Local Environmental Plan 2012 to amend the land use zones for 2, 2A, 4, 6 and 8 Arundel Street and 6, 8, 10 and 12 Parramatta Road, Forest Lodge should proceed subject to the following conditions:

1. The planning proposal is to be revised prior to public exhibition to:

   (a) update the commentary regarding section 9.1 Ministerial Direction 4.4 Remediation of Contaminated Land.

2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:

   (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2022) and must be made publicly available for a minimum of 20 working days; and

   (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2022).

   Exhibition must commence within 2 months following the date of the Gateway determination.

3. Consultation is required with the NSW Department of Education under section 3.34(2)(d) of the EP&A Act. The NSW Department of Education is to be provided with a copy of the planning proposal and any relevant supporting material and given at least 30 working days to comment on the proposal.

4. The planning proposal is to be revised prior to finalisation to:

   (a) include information that demonstrates consistency with, or that any inconsistency is justified and/or of minor significance, in relation to section 9.1 Direction 4.4 Remediation of Contaminated Land.

5. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

6. The Council as planning proposal authority is authorised to exercise the functions of the local plan-making authority under section 3.36(2) of the EP&A Act subject to the following:

   (a) the planning proposal authority has satisfied all the conditions of the gateway determination;

   (b) the planning proposal is consistent with applicable directions of the Minister under section 9.1 of the EP&A Act or the Secretary has agreed that any inconsistencies are justified; and

   (c) there are no outstanding written objections from public authorities.

7. The planning proposal should be reported to Council for a final recommendation no later than 5 months from the date of the Gateway determination.

8. The LEP should be completed on or before 23 January 2024.

Dated 23rd day of June 2023.



**Katie Joyner**
**Director, City of Sydney and Eastern District**
**Planning and Land Use Strategy**
**Department of Planning and Environment**

**Delegate of the Minister for Planning and Public Spaces**

# Item 6.

## Post Exhibition - Planning Proposal - 85-93 Commonwealth Street, Surry Hills - Sydney Local Environmental Plan 2012 Amendment

**File No: X096329.003**

## Summary

Lower Surry Hills is in 'Tech Central' and the City Fringe and is part of the Eastern Creative Precinct. Its high amenity, good accessibility and unique authentic character, former warehouse buildings and lower rents attracts creative firms and their workers. This appeal helps grow the City's creative industry and strengthen its global competitiveness. Increasing the amount employment floor space in Surry Hills is a priority across City and State strategies, namely the Local Strategic Planning Statement and Eastern City District Plan.

This report recommends the Central Sydney Planning Committee approve a planning proposal recently exhibited for 85-93 Commonwealth Street, Surry Hills. The planning proposal will amend the Sydney Local Environmental Plan 2012 to allow for a three-storey addition to an existing four-storey office building. This involves increasing the maximum floor space ratio (FSR) from 3:1 to 4.5:1 and changing the maximum building height from 18 metres (RL approximately 41.5) to RL 50.5 on the site's north, RL 47.2 across its middle and RL 40 on its south. To incentivise development that aligns with strategic priorities, the proposed controls will be limited to business, cultural and other similar uses.

The planning proposal was approved for public exhibition by Council and the Central Sydney Planning Committee on 15 and 11 May 2023 respectively. Following receipt of the Gateway Determination from the Department of Planning and Environment on 21 June, the planning proposal was exhibited from 21 August to 18 September 2023.

Seventeen submissions were received from 16 submitters in response to exhibition. Four submissions supported the planning proposal and 13 raised concerns. Most concerns related to the overshadowing impacts on private open space and Harmony Park. Other concerns were about traffic, office demand and the appearance of the proposed envelope. A summary of submissions and responses is provided at Attachment A.

While the exhibited envelope complied with the heights determined by the Harmony Park Sun Access Plane, the proposed envelope has been amended post-exhibition. The amendments to the envelope avoid overshadowing private open space and further reduce overshadowing to Harmony Park. The revised envelope responds to submissions about overshadowing, and the amendments respond to updated shadow analysis that showed the exhibited envelope partly overshadowing some private open space of a terrace dwelling, south of the site. Other matters such as traffic and office demand are manageable and able to be dealt with at the development application stage.

It is recommended that the planning proposal be approved as amended. If the planning proposal is approved, then a request will be made to Parliamentary Counsel to draft the amendment to the Local Environmental Plan. The amendment would come into effect when published on the NSW Legislation website.

## Recommendation

It is resolved that:

(A) the Central Sydney Planning Committee note the issues raised in the Summary of Submissions as shown at Attachment A to the subject report;

(B) the Central Sydney Planning Committee approve the Planning Proposal – 85-93 Commonwealth Street, Surry Hills (as amended) as shown at Attachment B to the subject report to be made as a local environmental plan under section 3.36 of the Environmental Planning and Assessment Act 1979; and

(C) authority be delegated to the Chief Executive Officer to make minor variations to the Planning Proposal – 85-93 Commonwealth Street, Surry Hills (as amended) to correct any minor errors prior to finalisation.

## Attachments

**Attachment A.** Summary of Submissions

**Attachment B.** Planning Proposal - 85-93 Commonwealth Street, Surry Hills (post-exhibition amendments shown in red)

**Attachment C.** Resolutions of Council and the Central Sydney Planning Committee

**Attachment D.** Gateway Determination

## Background

1. This report follows the public exhibition of a planning proposal to amend the Sydney Local Environmental Plan 2012 (LEP) as it applies to the site at 85-93 Commonwealth Street, Surry Hills.

### Site

2. On the land currently sits a four-storey brick office building with basement built to the boundary and without setbacks. The existing building's height is approximately RL 40 and its floor space ratio (FSR) is 3.18:1, which is more than the existing Local Environmental Plan's maximum, 3:1. The site area is 571 square metres, and wedge-shaped, being the upper segment of Commonwealth Street, Brisbane Street and Hunt Street intersection.

3. The site is sloped with the building presenting as four storeys at its western frontage to Hunt Street and as three storeys at its eastern frontage to Commonwealth Street. The building has no car parking spaces or crossovers to adjoining streets. The building is not a heritage item nor located within a heritage conservation area. The site's location is shown at Figure 1. Photographs of the existing building are shown at Figures 2 and 3.

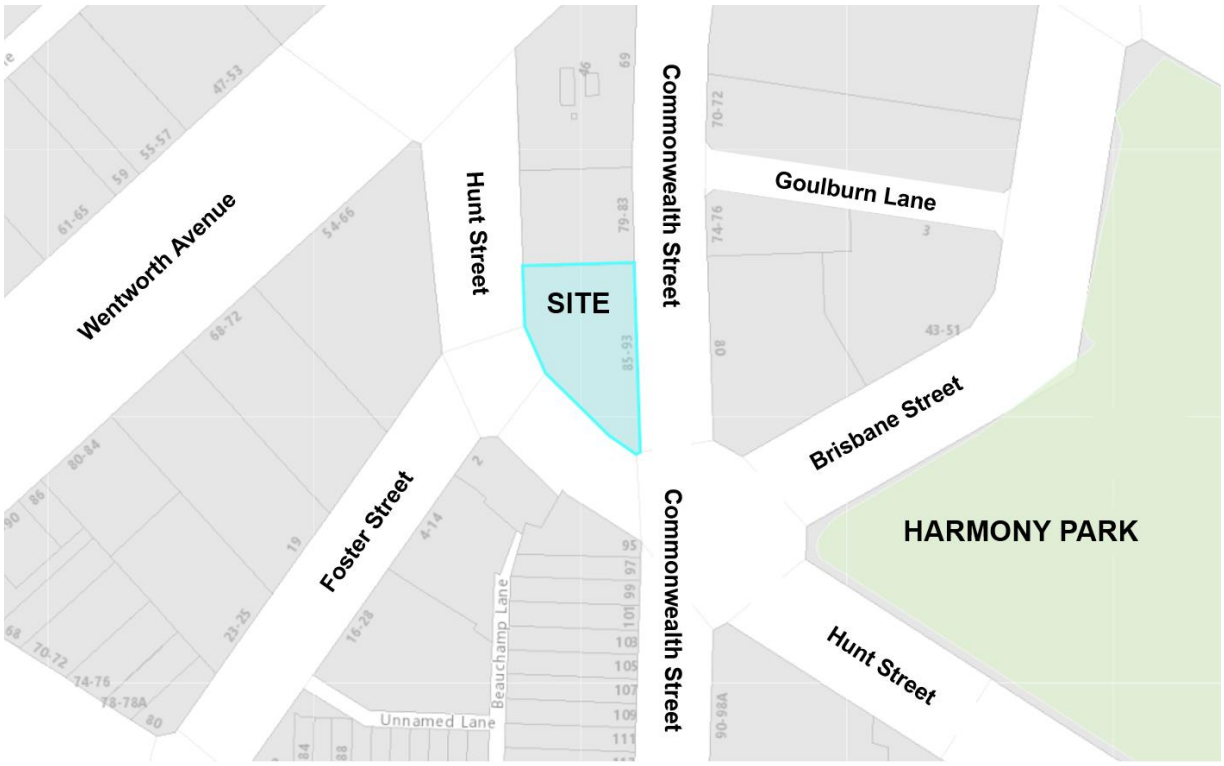



Figure 1. An indicative plan showing the site's location and vicinity




Figure 2. The existing building at 85-93 Commonwealth Street, looking west from Commonwealth Street



Figure 3. The existing building at 85-93 Commonwealth Street, looking north-east from Hunt Street

**The planning proposal is for a three-storey addition to an existing four-storey building**

4. The planning proposal was prepared in response to a request from SJB Planning on behalf of the landowner, Fink Group, with modifications following assessment and exhibition. It will enable a three-storey addition with setbacks to the existing building provided the use is for business, cultural or other similar uses. More specifically, it will insert new site-specific controls into the Local Environmental Plan to allow:

    - a maximum floor space ratio of 4.5:1 across the site, inclusive of the 10 per cent design excellence bonus; and
    - alternative building heights as shown on an Alternative Height of Buildings Map at Figure 4, being:
        - RL 50.5 metres on the site's northern part (which due to the site's slope is between 24.5 and 28.5 metres above the ground),
        - RL 47.2 metres across the site's middle latitude (between 19.2 and 23.2 metres above the ground), and
        - RL 40.0 metres on the site's southern part (between 14 to 16 metres above the ground).

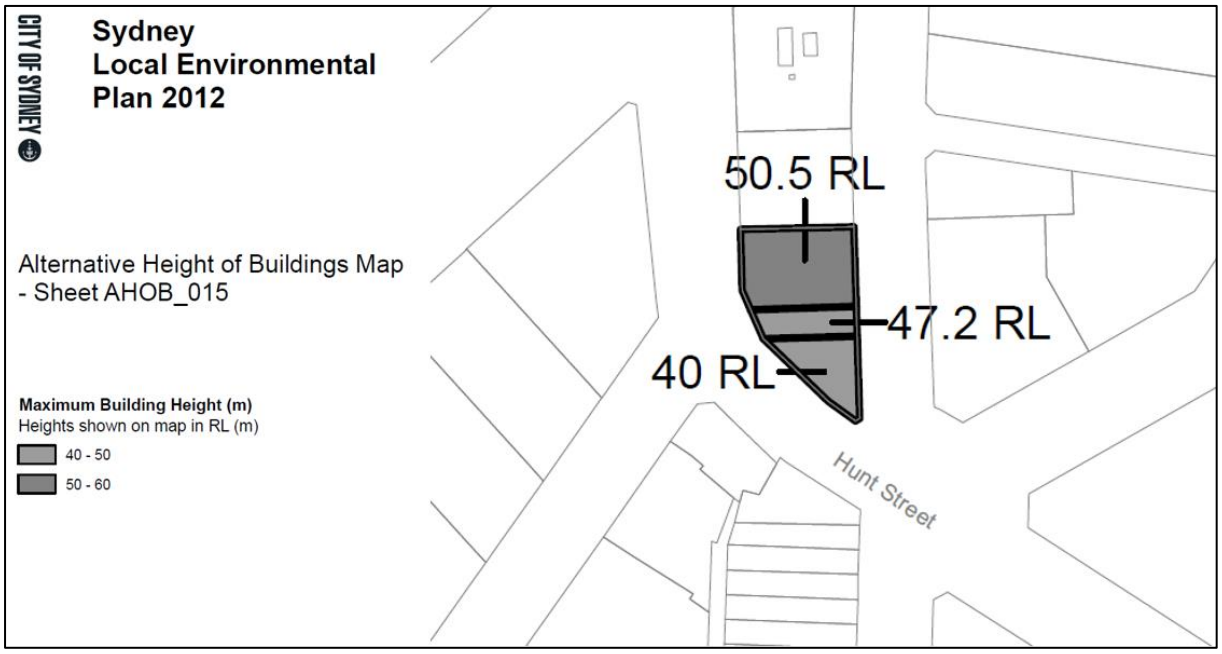



Figure 4. An excerpt of the proposed Alternative Height of Building Map

5. Development in accordance with the site-specific controls above will only be permitted if the consent authority is satisfied that development is for strategic uses such as business, creative and cultural uses, by excluding residential or serviced apartments. The clause will also exclude from the operation of clause 4.6 so that it may not be varied at Development Application stage.

6. The planning proposal was approved for public exhibition by Council and Central Sydney Planning Committee on 15 and 11 May 2023 respectively. Council and the Central Sydney Planning Committee's resolutions are shown at Attachment C.

**The proposal has strategic and site-specific merit**

7. The proposal aligns with City and State strategies by encouraging business, creative and innovation floor space in Surry Hills, which is part of 'Tech Central' and the City Fringe area. The proposal will give effect to priority P2 of the City's Local Strategic Planning Statement, 'developing innovative and diverse business clusters in City Fringe', as well as priorities E7, to grow 'a stronger and more competitive Harbour CBD,' E11, to increase 'jobs in strategic centres,' and E13, 'supporting growth of targeted industry sectors' of the Greater Cities Commission's Eastern City District Plan.

8. The planning proposal also demonstrates site-specific merit. The envelope has three different, tiered heights (see Figure 4 above) that each respond to the context:

    - the first, lowest step, RL 40 metres at the site's southern portion, retains the building's existing height and ensures that the building's important visual relationship with the intersection is unchanged;

    - the next, middle step, RL 47.2 metres, requires the future additional floor(s) to include a southern setback that prevents overshadowing from being caused to private open space, to any extent more than what current controls allow; and

    - the last, highest step, RL 50.5 aligns with the building adjacent to the north, providing visual consistency along the street walls of Commonwealth Street and Hunt Street.

9. The proposed maximum FSR of 4.5:1, inclusive of design excellence, enables a level of flexibility within the envelope for building articulation and setbacks consistent with the property to the north.

10. The proposed envelope has been amended post-exhibition to reduce the heights and include an additional step in the heights. This will ensure the envelope does not overshadow the private open space of a terrace dwelling to the south, more than what is currently allowed by the Local Environmental Plan.

**The Gateway Determination required additional overshadowing assessment**

11. On 21 June 2023, the Department of Planning and Environment issued a Gateway Determination for the planning proposal. The Gateway Determination is shown at Attachment E. It authorises Council to exercise its delegation and liaise directly with Parliamentary Counsel to draft and make the new Local Environmental Plan should the proposed controls be approved by Council and the Central Sydney Planning Committee.

12. The Gateway Determination included the following conditions:

    - 'provide a statement addressing consistency with Section 9.1 Ministerial Direction 4.5 Acid Sulfate Soils,'

    - 'provide an explanation of the need for exclusion of clause 4.6 variations,' and

    - 'include shadow analysis demonstrating any additional overshadowing of the private open space of the residential terraces on Commonwealth Street and Harmony Park'.

13. These conditions were satisfied by the insertion of additional information under CEO delegation granted on 18 August 2023. Subsequent correspondence with the Department of Planning and Environment on 30 August 2023 confirmed that these conditions had been satisfied.

**Additional overshadowing assessment identified impacts to private open space**

14. The City's additional overshadowing assessment is provided in an addendum to the planning proposal and was exhibited with the planning proposal. The addendum provides a detailed assessment of the overshadowing caused by the exhibited envelope. The addendum concluded that on 21 June, the exhibited envelope would cause additional overshadowing to the private open space of a terrace dwelling to the south of the site, between 10.30 and 11.30am; and to the southwestern corner of Harmony Park from 2.15pm.

15. The overshadowing impacts in the addendum were not identified in the pre-exhibition report, or the planning proposal approved by Council in May. The overshadowing analysis supplied by the proponent with their planning proposal incorrectly showed no impact. The City's smaller proposal was therefore assumed to also have no impact. The overshadowing analysis required by the Gateway Determination found the proponent's original analysis was incorrect and that the City's proposal would partly overshadow private and public open space.

16. The overshadowing addendum was exhibited with the planning proposal, which was updated to accurately describe the minor overshadowing and other requirements of the Gateway Determination. Notes stating that the overshadowing analysis was incorrect were added to the exhibited versions of the proponent's urban design and planning proposal reports.

**The planning proposal was publicly exhibited, with updated overshadowing information**

17. The planning proposal, along with the overshadowing addendum and other exhibition material, was exhibited between 21 August and 18 September 2023, in accordance with the Gateway Determination and the City's Sydney Community Engagement Strategy and Participation Plan 2022.

18. The City sent 3,593 letters to owners and occupants of properties within 75 metres of the site, notifying them of the planning proposal's exhibition. The planning proposal was also advertised on the City's Sydney Your Say website and the NSW Planning Portal. Public authorities were not notified because this was not required by the Gateway Determination.

19. Seventeen submissions were received, including four from the owners of different terraces along Commonwealth Street. Four of the 17 submissions supported the planning proposal, and 13 raised concerns about matters such as overshadowing, office demand and traffic. A detailed summary of and responses to matters raised in submissions is provided at Attachment A. A summary of the concerns raised and City responses is also provided below.

**Four submissions supported the planning proposal**

20. Supporting submissions said that land in Surry Hills is underused and that more development should be allowed. They also said that the exhibited overshadowing impacts were minimal and an acceptable trade-off to increase floor space. The supporting submissions are noted.

**Submissions raised concerns around overshadowing impacts**

21. Six submissions raised concerns about the proposed envelope overshadowing the private open space of a terrace dwelling south of the site. Specific points raised related to the adverse impacts on liveability and property values. The exhibited envelope would cause additional overshadowing (compared with a maximised LEP-compliant envelope) to the private open space of the terrace dwelling between 10.30am and 11.30am on June 21.

22. Eleven submissions raised concerns about the overshadowing impacts the exhibited envelope would have on Harmony Park. These concerns focused on the potential reduction in the park's enjoyment and amenity.

**The proposed envelope has been amended to avoid certain overshadowing impacts**

23. The planning proposal envelope has been amended post-exhibition to avoid causing any additional overshadowing to the private open space of a dwelling to the south of the site, when compared with a maximised LEP-compliant envelope.

24. The heights have been reduced across the middle (RL 51.5 to RL 47.2) and northern (RL 51.5 to RL 50.5) parts of the envelope. This creates a southern setback that prevents the envelope from overshadowing private open space more than what is currently allowed by the Local Environmental Plan.

25. The post exhibition amendments to the building heights, have also led to a review of the floor space ratio for the site. This is to ensure that the floor space can be adequately accommodated within the proposed envelope. The maximum FSR of 4.5:1 can be maintained, however, for clarity it has been specified in the updated planning proposal that the maximum includes the potential award of any design excellence bonus floor space. Further, the controls will be clarified to remove the opportunity for a height bonus for design excellence due to the overshadowing impacts.

26. Harmony Park's solar access requirements were established as part of the Central Sydney planning proposal with updated sun access plane controls (SAPs). The SAPs prohibit development from overshadowing Harmony Park, year-round, between 10am and 2pm. Both the exhibited and amended envelopes comply with Harmony Park's SAPs.

27. The amended envelope will overshadow the southwestern corner of Harmony Park from approximately 2.30pm on 21 June. At 3pm, the planning proposal envelope will overshadow approximately 44 square metres of the park's vegetated area. This impact complies with applicable SAPs, noting the small area affected is mostly low-use hardstand (see Figure 5). As the heights comply with the SAP for Harmony Park and the overshadowing is acceptable, no further change is proposed to the planning proposal in response to this issue.



Figure 5. The southwestern corner of Harmony Park, looking north from Hunt Street

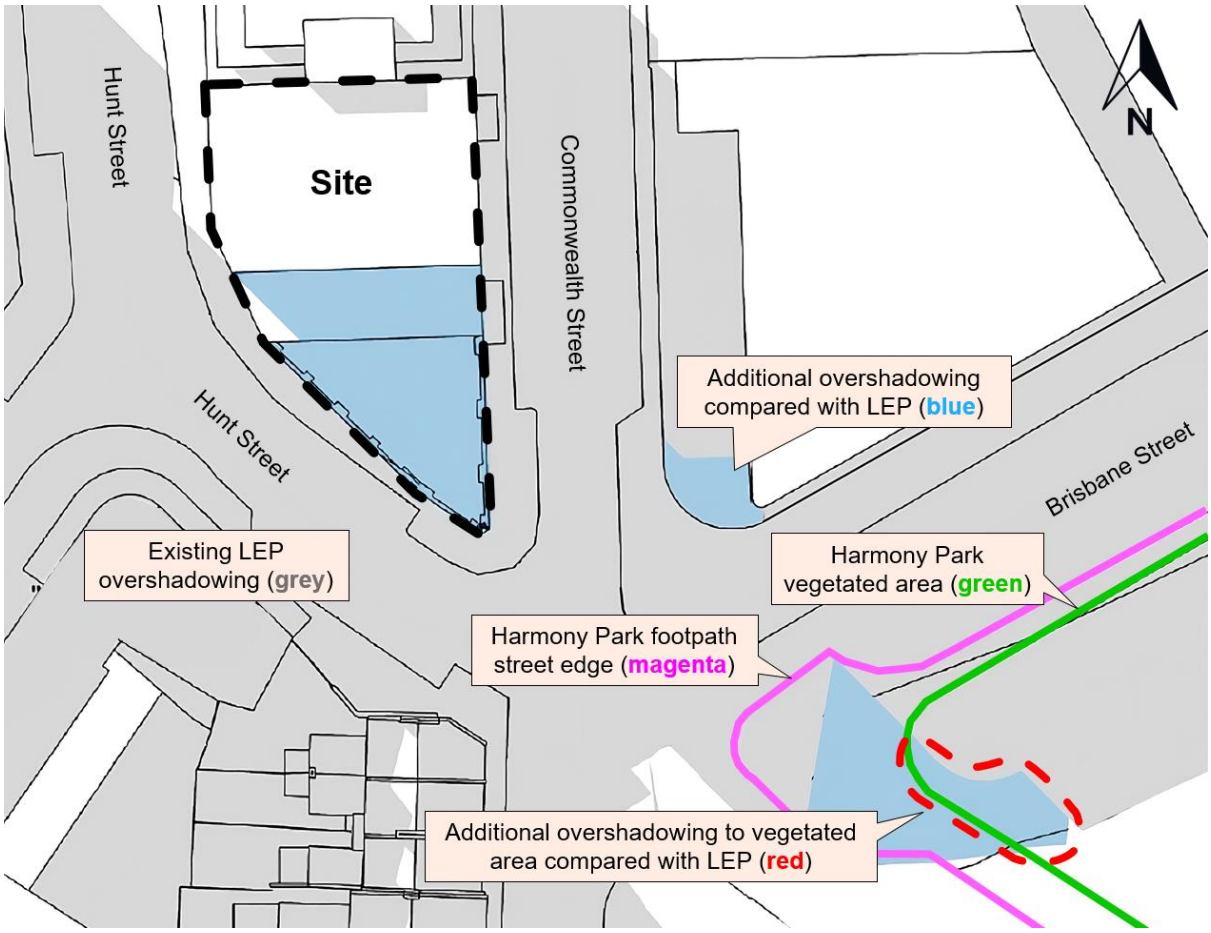



Figure 6. An indicative plan showing the envelope's additional overshadowing impact on Harmony Park at 3pm on June 21

**Other submissions raised concerns about inadequate office demand to traffic, view loss and insufficient merit**

28. Other submissions received include:

    - six saying that there is not enough demand for office floor space, or that the site would be better used for something other than offices;
    - three concerned that owners or residents of affected terrace dwellings may not have received exhibition material;
    - one concerned about the potential for the planning proposal to add to congestion and increased pedestrian activity in the area;
    - one noting that recent development in Surry Hills has caused view loss for apartments in the area and concern the proposed envelope may worsen views, particularly those of a warehouse building in the area;
    - one concerned about the impacts of the exhibited envelope's inconsistency with the surrounding heritage character; and
    - one saying that the proposal did not justify the merit required to amend the Local Environmental Plan.

**These concerns are considered manageable, or are able to be dealt with at the development application stage**

29. This part of Surry Hills, on the edge of 'Tech Central', is identified for growth in business, innovation and creative floor space across City and State level strategic plans, such as the City's Local Strategic Planning Statement and the Greater Cities Commission's Eastern City District Plan. Limiting the uplift to uses other than residential and serviced apartments incentivise development that aligns with this objective. There is also strong demand for creative office space in Surry Hills. This is partly owing to its specialisation in creative and entertainment industries, which prefer alternative office spaces like what is proposed.

30. The City received submissions from owners and residents of terrace dwellings along Commonwealth Street. Their concerns about overshadowing to their private open space has been addressed by amending the proposed envelope.

31. The planning proposal is in a highly accessible location, close to Museum and Central Stations and many bus routes. The existing site currently has no carparking spaces or crossovers and the planning proposal does not change this arrangement. Detailed traffic impact assessment will be required at the development application stage.

32. The submission regarding view loss raised general concerns about the cumulative loss of views from the apartment building at 133 Goulburn Street due to recent development. No specific view was identified however a particular concern was that residents had recently had views of a nearby warehouse building. The potential loss of such views is not generally a consideration at the planning proposal stage.

33. The building is not a heritage item nor located within a heritage conservation area. The proposed envelope is sympathetic with surrounding built form and retains the existing building's relationship to the intersection.

34. The planning proposal has strategic and site-specific merit. Further information about the planning proposal's strategic and site-specific merit is contained within the planning proposal.

## Key Implications

### Strategic Alignment

35. The Greater Cities Commission's Greater Sydney Region Plan and Eastern City District Plan are used to shape strategic planning and infrastructure in metropolitan Sydney and align planning from the broadest regional area down to the local area. The City's Local Strategic Planning Statement sets the land use planning strategy for the City which is required to align with the Region and District Plans. The City's planning controls are then required to give effect to the strategic plans.

36. The Region Plan, District Plan and Local Strategic Planning Statement adopt planning priorities of similar themes, being infrastructure, liveability, productivity, sustainability and governance. How this proposal gives effect to these priorities is discussed in detail in the planning proposal and summarised below.

37. The proposal supports the growth of employment floorspace in a strategically identified area, the Eastern Creative District, part of City Fringe. Facilitating the development of employment (i.e. non-residential) floorspace in this area gives effect to productivity strategic objectives, particularly:

    - The City's Local Strategic Planning Statement, priority P2, 'developing innovative and diverse business clusters in City Fringe,' which includes actions such as

        - P2.1: 'deliver diverse, suitable and well-designed spaces and places to support City Fringe's contribution to the city's and the District's economic diversity, affordability and resilience…' and

        - P2.6: 'strengthen the economic and cultural role of the Eastern Creative Precinct by: safeguarding the capacity for a range of diverse and well-designed business, retail and office spaces…'.

    - The Greater City Commission's Eastern City District Plan, namely:

        - priority E7, 'growing stronger and more competitive Harbour CBD,' which includes Surry Hills;

        - priority E11, 'growing investment, business opportunities and jobs in strategic centres'; and

        - priority E13,'supporting growth of targeted industry sectors'.

## Relevant Legislation

38. Environmental Planning and Assessment Act 1979.

39. Environmental Planning and Assessment Regulation 2021.

## Critical Dates / Time Frames

40. The Gateway Determination requires the planning proposal be made by 21 January 2024.

41. The amendment to the Sydney Local Environmental Plan 2012 will come into effect when published on the NSW Legislation website.

**GRAHAM JAHN AM**

Director City Planning, Development and Transport

Ben Schneider, Cadet Planner

Sally Peters, Manager Central Sydney Planning

# Attachment A

## Summary of Submissions

## Submissions Summary

| Submissions | Comments | Response |
|---|---|---|
| 3 from community members, including 1 from the owner of a terrace dwelling along Commonwealth Street | **Support.**<br>Land in Surry Hills is underutilised and has the potential to support more development.<br>The overshadowing impacts are minimal and an acceptable trade-off to increase floorspace. | Noted. |
| 6 from community members, including 3 from owners of terrace dwellings along Commonwealth Street. | **Overshadowing to private open space, mainly backyards of terrace dwellings along Commonwealth Street.**<br>Backyards along Commonwealth Street already experience significant shading due to existing tall buildings<br>Additional overshadowing will have adverse consequences on liveability and property values.<br>Interest expressed in whether compensation may be sought for loss of natural light.<br>Any loss of natural light to homes is detrimental.<br>Overshadowing to backyards is unacceptable and will set a precedent. | The planning proposal has been amended post-exhibition to include an envelope that avoids overshadowing private open space more than what is allowable under the current Local Environmental Plan. |
| 12 from community members | **The additional overshadowing to Harmony Park will reduce its quality and amenity.**<br>Many locals use Harmony Park, which is already heavily shaded in the afternoons.<br>The proposed changes will diminish the quality and amenity of one of Surry Hills' most frequently used parks.<br>The park is a vital sun access park for the community, and there should be no sun access lost.<br>With increased population, Harmony Park has become a high use area.<br>Harmony Park is used by many nearby apartment residents and is their only 'backyard' in many cases.<br>The quality of views from nearby apartments to Harmony Park will be reduced by the overshadowing.<br>Harmony Park currently provides a green and sunny view from nearby apartments. | A detailed evaluation of Harmony Park's solar access requirements was done as part of the 2020 Central Sydney planning proposal. It amended the LEP to update sun access plane controls (SAPs). The SAPs prohibit development from overshadowing Harmony Park, year-round, between 10am and 2pm. Both the exhibited and amended envelopes comply with the Harmony Park SAPs.<br>Notwithstanding its compliance with the Harmony Park SAPs, the amended envelope will cause additional overshadowing to a small part of the Harmony Park hard stand area in southwestern corner from approximately 2:30pm on 21 June. This overshadowing is considered acceptable noting it is less than would be caused by the permissible street wall height.<br>It is also considered that the minimal, LEP-compliant overshadowing to Harmony Park will not significantly affect the quality of views or outlook from nearby apartments. |
| 3 from owners of terrace dwellings along Commonwealth Street. | **Some nearby owners may not be aware of the planning proposal.** | The planning proposal was publicly exhibited from 21 August to 18 September 2023. The public exhibition was undertaken |

| Submissions | Comments | Response |
|---|---|---|
| | Some terrace dwellings along Commonwealth Street are currently undergoing renovation or are rentals. There is concern that the owners of these properties may not have been aware of the exhibition, due to being away. | in accordance with the Gateway determination and the City of Sydney Community Engagement Strategy and Participation Plan 2023.<br>The City sent 3,593 letters to landowners and occupants of neighbouring properties within 75 metres of the site. The planning proposal was also advertised on the Sydney Your Say web page and NSW Planning Portal.<br>The City heard from 16 community members, who submitted 17 submissions in response to exhibition, including a number of residents of terrace dwellings along Commonwealth Street, south of the site. |
| 6 from community members. | **Demand for employment floorspace**<br>Surry Hills currently boasts an abundance of commercial and office space.<br>Many commercial and office spaces currently have low occupancy, partly due to the rise of remote working.<br>Office spaces are in oversupply and low demand. Increasing office space is unlikely to attract jobs.<br>Surry Hills does not need any more commercial or office space.<br>The space would be better used for something else. | The planning proposal will not restrict the additional development to a commercial office use only. The proposed envelope may be developed for any use other than residential or serviced apartments. This will incentivise development in accordance with the City's strategic vision for City Fringe.<br>This part of Surry Hills is on the edge of 'Tech Central' and within a strategic area identified in City and State strategic plans which aims to support and grow innovation and creative industries.<br>In any case, their interests have been taken into account. |
| 14 from community members. | **The proposed design envelope should be changed to mitigate adverse impacts.**<br>Reduce the height increase to fewer stories, and require the design to change to ensure less shadowing by making the higher floors not take up the entire property.<br>A tiered mass potion has the possibility of adding visual interest and expressing sympathy with the neighbourhood.<br>The proposed design may set a precedent for the area, leading to other buildings becoming taller and cumulative impacts.<br>The proposed design is negatively impactful on the heritage style of the existing building<br>The proposed envelope will further obstruct views from apartments in the area. Recent developments in the area have obstructed views from an apartment building at 133 Goulburn Street to a nearby warehouse building.<br>The built form and design does not align with ESD principles. | The planning proposal has been revised to include an amended envelope with reduced heights and additional setbacks. The amended envelope will not cause any additional overshadowing to the private open space of terrace dwellings south of the site. The amended envelope has a tiered massing for the new addition.<br>Each planning proposal is assessed on its own merits, against strategic and site specific objectives<br>The building is not identified as a heritage item, being a four-storey brick office building that is consistent with the surrounding character. Further, the site is not within a heritage conservation area. The proposed envelope is sympathetic with the existing development and surrounding built form. The height is limited to the existing building at its southern end to retain the relationship with the street intersection.<br>Private views from apartments across sites are not protected. 133 Goulburn Street |

| Submissions | Comments | Response |
|---|---|---|
| | The planning proposal will change the skyline of the area and affect natural light in the streets. | apartment building is located north east of the site with other buildings between it and the site. The proposal will be seen in private views from a small number of units in 133 Goulburn Street towards the south west. 133 Goulburn will still have wide district views from the south west through to the east.<br>Any future development application for the site will need to address the City's existing controls including the recently adopted Net Zero Energy Building controls. It is also noted that the sustainability of the building is enhanced by the retention of the existing building, re-used with additions to the northern portion of the site. Notwithstanding, the future development's environmental performance will be assessed at the detailed development application stage. |
| 2 from community members, who both live close to the site. | **The planning proposal may adversely impact traffic in the area.**<br>The planning proposal will cause further congestion along Commonwealth Street and adversely affect access to the car park of the apartment building at 133 Goulburn Street.<br>There has been a great deal of new construction in the area which is creating a congested neighbourhood.<br>Allowing the building's height to be increased will cause more overcrowding and traffic chaos in the area. | The subject site is in a highly accessible location, being near to Central Station and a number of bus routes. Local on-street parking is also time- and permit-restricted, further limiting the potential for a significant number of additional vehicles. The existing site currently hosts no carparking spaces or crossovers to adjoining streets, with the retention of the existing building this will not change.<br>Detailed assessment of any additional traffic impacts will be undertaken at this stage.<br>The footpath capacity in the area is considered sufficient for the current and expected future pedestrian demand. |
| 1 from a community member. | **Merit**<br>There is inadequate justification for the proposed amendments to the Sydney Local Environmental Plan. | The planning proposal demonstrates strategic merit by creating additional employment floor space, which is in alignment with priorities P2 of the City's Local Strategic Planning Statement and E7, E11 and E13 of the Greater Cities Commission's Eastern City District Plan.<br>The planning proposal demonstrates site-specific merit by ensuring appropriate heights and setbacks through the proposed development controls.<br>Further information about the planning proposal's strategic and site-specific merit is contained within the planning proposal. |

# Attachment B

**Planning Proposal – 85-93 Commonwealth Street, Surry Hills (post exhibition amendments shown in red)**

CITY OF SYDNEY

# Planning Proposal – 85-93 Commonwealth Street, Surry Hills





The City of Sydney acknowledges the Gadigal of the Eora Nation as the Traditional Custodians of our local area.

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# Executive Summary

The City of Sydney (the City) has prepared this planning proposal for 85-93 Commonwealth Street, Surry Hills (the site) following a request from the owner.

This planning proposal explains the intent and justification for the proposed amendments to the Sydney Local Environmental Plan 2012 (Sydney LEP) as it applies to the site. The proposed amendments are to increase the maximum building height and floor space ratio (FSR) controls applied to the site to:

– permit a three-storey addition on the northern part of the existing three-to-four storey building, and

– ensure the site's ongoing commercial use.

The site is a wedge shape formed from the intersection of Commonwealth and Hunt Streets and is approximately 571 square metres in area. The surrounding development is characterised by mixed-use developments featuring commercial uses on lower floors with residential above. The scale varies from 6-7 stories to the north and west of the site, with lower forms of 2-3 storeys to the south and east.

The proposed amendments support development consistent with the Greater Cities Commission's Eastern City District Plan and City's Local Strategic Planning Statement, by improving the built form design and aligning with principles of ESD, as well as by expanding the supply of employment floorspace in Surry Hills.

Under the existing Sydney LEP controls the site is zoned B4 Mixed Use, has a maximum building height of 18 metres, and a maximum FSR of 3:1, with additional floorspace available where development exhibits design excellence.

Specifically, this planning proposal seeks to amend the Sydney LEP to:

– increase the maximum FSR to 4.5:1 (inclusive of the 10 per cent design excellence bonus) from 3:1,

– increase the maximum building height on the northern part of the site to RL ~~51.5~~ 50.5 metres (7 stories plus basement) and the middle portion of the site to RL 47.2 metres (6 stories plus basement), both from 18 metres (3 stories plus basement), and

– lower the maximum building height on the southern part of the site to RL 40 metres from 18 metres (maintaining the existing 3-storey plus basement height).

This planning proposal also proposes provisions to ensure that the approval of any subsequent development application would be subject to the consent authority being satisfied that the use was not for residential accommodation or serviced apartments.

This planning proposal has been prepared in accordance with s3.33 of the Environmental planning and Assessment Act 1979 and the Department of Planning and Environment's Guide to Preparing Planning Proposals and Guide to Preparing Local Environmental Plans.

# 1. Background

## 1.1 Landowner request

The City has received a request from the landowner of 85-93 Commonwealth St, Sydney (Surry Hills Pty Ltd) to amend the floor space ratio (FSR) and height of building (HOB) controls that currently apply to the site in Sydney LEP 2012.

The proponent has sought the following amendments to the Sydney LEP 2012:

– increase the height of building control from 18m to RL 51.66 across the site, allowing for an additional 3 storeys;

– increase the FSR control from 3:1 to 5.46:1, noting that the existing building FSR is 3.35:1 which exceeds the LEP control; and

The proponent request links these changes to a development that would be for commercial uses only.

## 1.2 City response

The City has undertaken an urban design review of the impacts of a building envelope enabled by the heights and FSR sought by the proponent. The review concludes that while there is capacity on the site to increase employment floor space, a lower FSR and modified arrangement of height is appropriate to remain compatible with the height and scale of surrounding development and ~~the mixed use character of the locality.~~, whilst preventing overshadowing private open space. This is to ensure resulting development on the site that better suits the character of the area in terms of bulk, scale and height.

This planning proposal is therefore inconsistent with the landowners request.

## 1.3 Site identification

This planning proposal relates to the property at 85-93 Commonwealth Street, Surry Hills. The property is legally defined as Lots 22 and 23 in DP 6380.

The site is a wedge shape, formed from the intersection from Commonwealth Street and Hunt Street. It is 571.14 square metres in area and falls approximately 4.65 metres from the Commonwealth Street frontage to the Hunt Street frontage. The site is currently occupied by a four-storey building, currently used as commercial office space. Development adjacent to the site is discussed below:

North

The property adjoining the site to the north is a seven storey commercial building with retail uses on the ground floor along the Hunt Street frontage.

South

The building opposite the site on Hunt Street is the three-storey Hollywood Hotel, a locally-listed heritage item

East

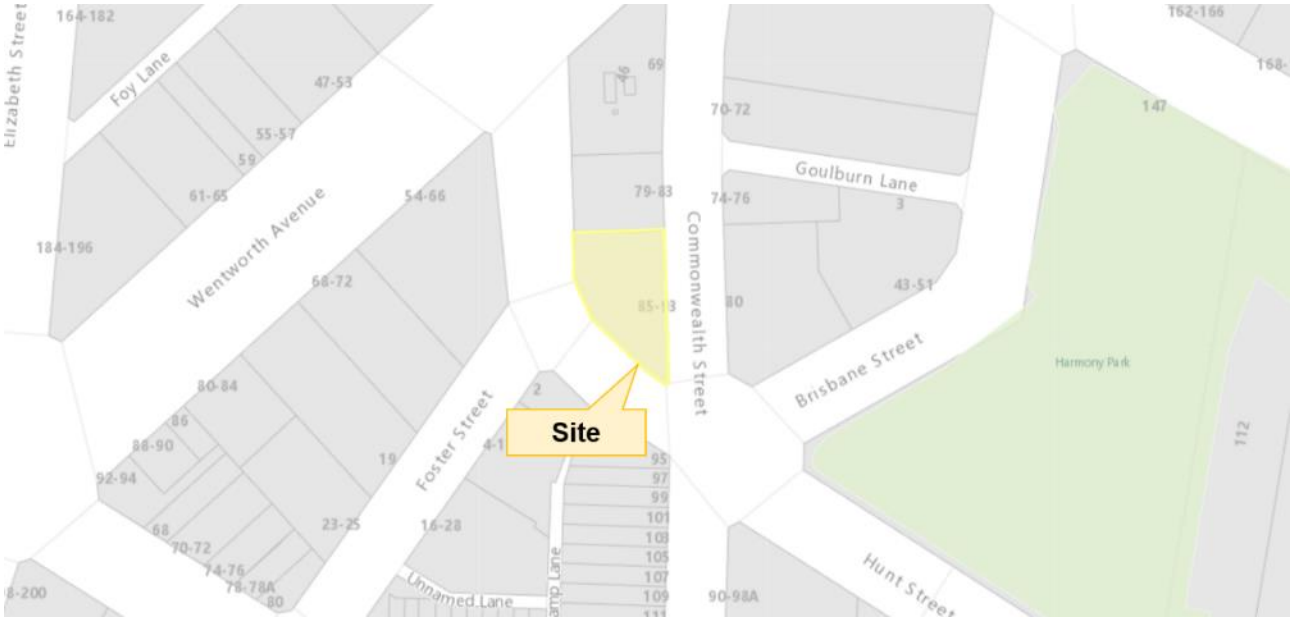
The properties adjacent to the east along Commonwealth Street are commercial and accommodate a variety of restaurant and active uses at the ground level. A three-storey building directly east of the site, known as the 'Paramount Building', is a locally listed heritage item.

West

The property to the west along Hunt Street comprises a seven-storey commercial building with carparking at ground level.

The location of the site is shown below in Figure 1.

## Figure 1. Indicative plan showing the site's location and vicinity




The site is located within Surry Hills, a suburb immediately southeast of Sydney's CBD. The area around the site is characterised by a wide range of uses, including educational, food and drink premises, retail, residential and visitors accommodation. The site is highly accessible, being 200m south-east of an entry to the Museum train station, and well-serviced by a number of bus routes. The site's context is shown below in Figures 2 and 3.

## Figure 2. Indicative plan showing the site's context and suburb boundaries




## Figure 3. Oblique view from the south-east



# 2. Existing planning controls

## 2.1 Zoning

The site is currently zoned Mixed Use in Sydney LEP, shown in purple on Figure 4.

Objectives of the MU1 zone include providing a mixture of compatible land uses; integrating sustainable business, office, residential, retail and other development in accessible locations; and ensuring uses support the viability of centres. The zone permits a broad range of uses, including commercial premises, residential, community facilities, education facilities, and visitor accommodation.

This planning proposal will not change the site's existing zoning.

## Figure 4. Zoning in Sydney LEP

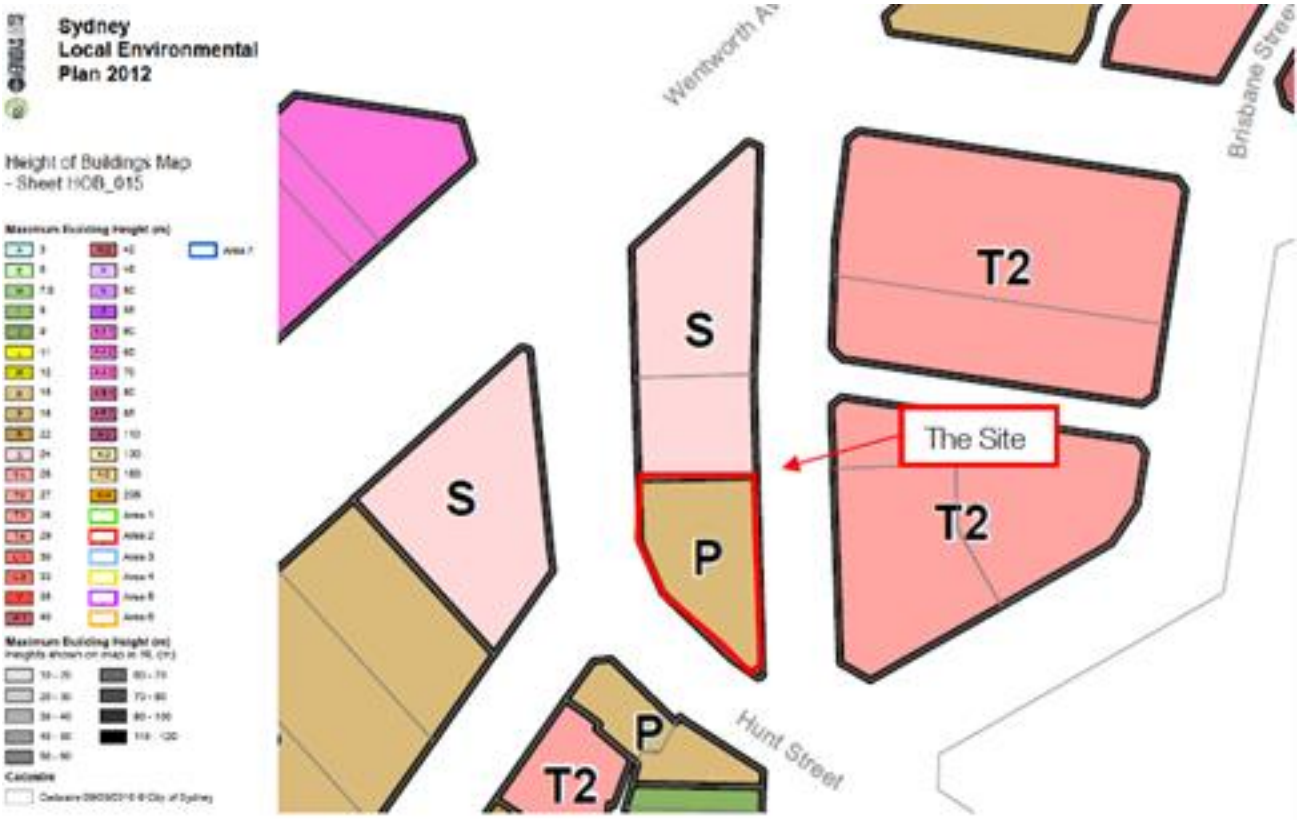



## 2.2 Development standards

**Maximum height of building**

The site is subject to a maximum height of building control of 18m in Sydney LEP 2012. As shown in Figure 5, a building height of 24 metres is permitted immediately to the north and to the west, 27 metres to the east, and 18 metres to the south.

## Figure 5. Height of building controls in Sydney LEP 2012




**Floor space ratio**

The site is subject to a maximum FSR control of 3:1 as shown in Figure 6. Higher FSRs are permitted on the surrounding properties to the north (6:1), east and west (4:1). Properties to the south have an FSR of 3:1.

## Figure 6. Floor Space Ratio controls in Sydney LEP 2012




## 2.3 Sun access planes

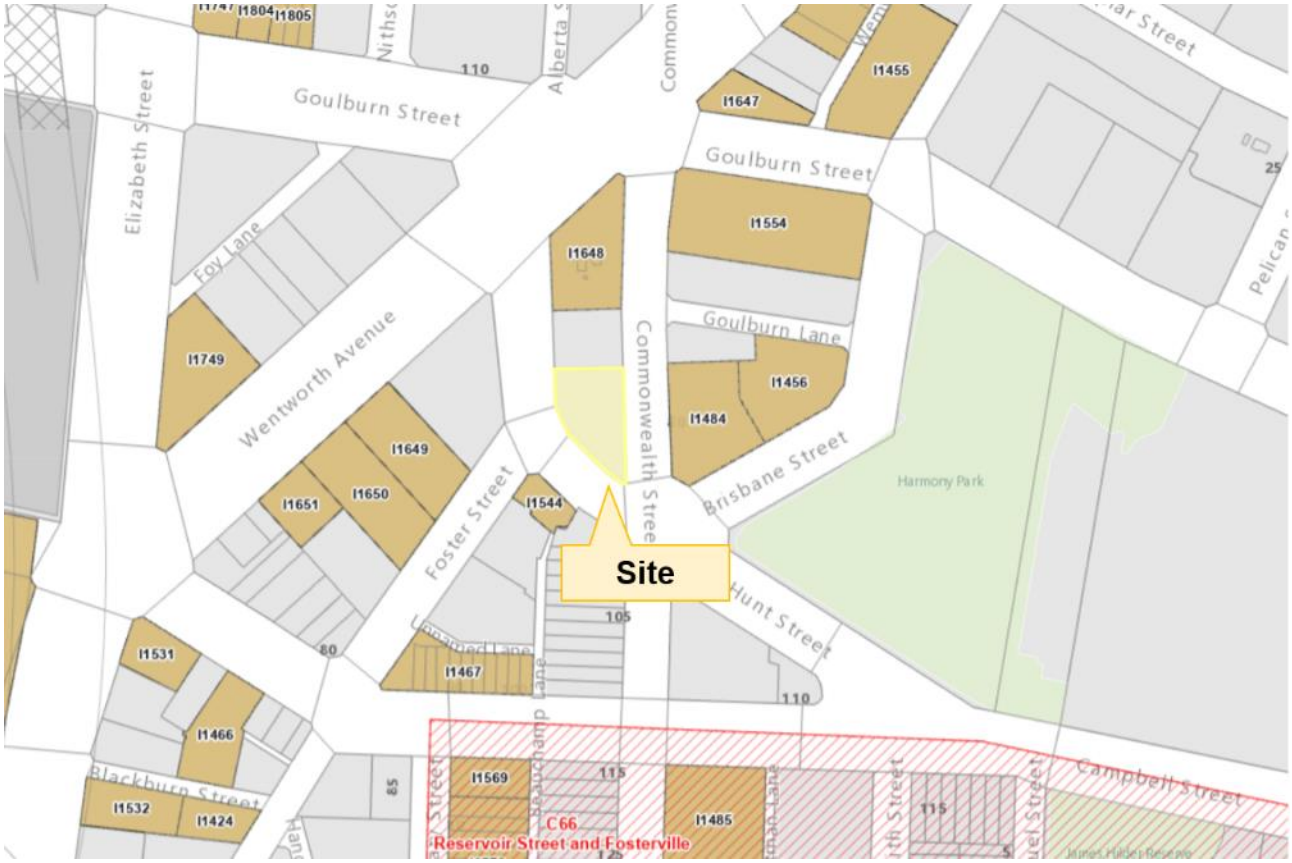
The site is in close proximity to Harmony Park. Sydney LEP includes a sun access plane which prevents overshadowing of the park between 10am and 2pm all year round.

## 2.4 Heritage

The site is not heritage listed or within a heritage conservation area. However, there are a number of local heritage listed items within the site's vicinity. Figure 7 below shows the locations of these items in relation to the site, including:

- I1484 – Former "Paramount Pictures" including interior – 78-80 Commonwealth Street, Surry Hills;
- I1544 – "Hollywood Hotel" including interior – 2 Foster Street, Surry Hills;
- I1648 – "Griffith's Building" including interior – 46-52 Wentworth Avenue, Surry Hills; and
- I1649 – "Ballarat House" – 68-72 Wentworth Avenue, Surry Hills.

## Figure 7. Indicative plan showing the locations of heritage items and the boundary of the heritage conservation area



# 3. Objectives and intended outcomes

The objective of this planning proposal is to enable additional height on the northern part of the existing commercial building at 85-93 Commonwealth Street, Surry Hills and to facilitate additional commercial floor space to support jobs growth in the City Fringe.

# 4. Explanation of provisions

## Explanation

It is proposed to amend Sydney LEP 2012 to allow for an increased FSR and maximum building height on part of the site but only if development is wholly used for commercial or other non-residential purposes.

A new provision in Division 5 – Site Specific Provisions in Sydney LEP 2012 will allow alternative FSR and Height of Building controls to those allowed by clauses 4.3 and 4.4 which will:

- allow a maximum floor space ratio of 4.5:1, inclusive of the 10 per cent design excellence bonus, to apply to the whole site; and
- allow for alternative building heights as shown on an Alternative Height of Building Map as follows:
  - RL ~~51.5~~ 50.5 metres on the northern part of the site (due to the gradient of the site this change approximately equals 28.5 to 24.5 metres above ground east to west); ~~and~~
  - RL 47.2 metres in the middle part of the site (due to the gradient of the site this change approximately equals 19.2 to 23.2 metres above the ground east to west); and
  - RL 40 metres on the southern part of the site (due to the gradient of the site this change approximately equals a height of 16 to 14 metres above ground east to west).

The alternative site-specific controls described above may only be achieved if the consent authority is satisfied that a building on the site is used wholly for purposes other than residential accommodation and serviced apartments. Otherwise the existing FSR and Height of Building controls (3:1 and 18 metres respectively) in Sydney LEP 2012 continue to apply; that is – the alternative controls cannot be accessed for the purposes other than specified non-residential uses.

Clause 4.6 of Sydney LEP should not apply to the alternative height and FSR controls, so that future development applications lodged under these proposed site-specific provisions do not further vary the controls for this site.

# 5. Justification

The purpose of this planning proposal is to increase the maximum permissible building height and FSR on the site to support the creation of new employment floorspace in Surry Hills. The proposal is considered to be of minor strategic impact and is consistent with local strategic planning objectives for the area.

## Strategic merit

The planning proposal aligns with key City and State strategies, as detailed below.

**City Plan 2036**

The site is located in the City Fringe which is identified for jobs growth in City Plan 2036. It is also within the Eastern Creative Precinct as identified in the LSPS which comprises of a concentration of creative industries and information media clusters.

This planning proposal enables new employment floorspace in a strategic location and aligns strongly with the following LSPS priorities:

– *Infrastructure I1, 'align development and growth with supporting infrastructure'*

– *Productivity P2, 'developing innovative and diverse business clusters in City Fringe'.*

New employment floorspace can be used to grow employment within clusters of highly skilled jobs. Increasing employment opportunities in the City Fringe is strategically important because it includes some of the City of Sydney's (and the Eastern City District's) most diverse and mature knowledge-based and creative clusters, is a leading place for investment and innovation, and has a highly specialised economic role. Additional employment floor space on the site will contribute to and reinforce these characteristics.

The site is also located within the Eastern Creative Precinct. This precinct comprises of a concentration of creative industries and information media clusters. In the Eastern City Creative Precinct, the City is encouraging cultural uses as a driver of creativity and enterprise, a source of job creation and potential for place-making. Additional employment floor space in this location will build upon existing and emerging employment and creative business clusters.

**Eastern City District Plan 2018**

This planning proposal supports the priorities of the Eastern City District Plan 2018 (ECDP), as follows:

*Planning priority E6, 'creating and renewing great places and local centres'*

The proposal incentivises the renewal of an existing commercial site. The creation of new commercial floorspace contributes to strengthening of the City Fringe and the Eastern Creative Precinct as an area where varied business types can emerge and develop.

*Planning priority E11, 'growing investment, business opportunities and jobs in strategic centres'*

*Planning Priority E13, 'supporting growth of targeted industry sectors'*

The proposal supports new employment floorspace in a strategic location. The future development will contribute to investment and jobs, supporting opportunities for innovative and diverse business clusters in the City Fringe, as well as for creative and emerging industries in the Eastern Creative Precinct.

# Site-specific merit

The existing building is a 4-storey commercial building with a basement. The model of the envelope is shown in Figure 8 for comparison.

The landowners request shown in Figure 9 is for a building of 7 storeys across the whole site, plus the existing basement. The City's assessment is that carrying this 7-storey built form across the full extent of the site would result in unacceptable impacts on neighbourhood character, particularly in the future relationship with the adjacent Hollywood Hotel and Paramount House heritage items.

Notwithstanding this, it is agreed there is some capacity on the site to increase employment floor space, while remaining compatible with the height and scale of surrounding development and the mixed-use character of the locality. This is to ensure resulting development on the site that better suits the character of the area in terms of bulk, scale and height. This planning proposal is therefore inconsistent with the landowners request.

This planning proposal is to change the height and FSR controls to enable an additional two-to-three floors on the northern part of the site and maintain the existing developed building height on the southern part of the site.

~~The proposed building height of RL 40 metres at the southern triangular portion of the site maintains a consistent relationship with these buildings and the proposed height on the northern portion of the site of RL 51.5 metres closely matches the taller office building to the north of the site.~~

**Post-exhibition amendments to the Planning Proposal**

This planning proposal has been amended post-exhibition to reduce the maximum heights across the site, and to clarify that the proposed FSR of 4.5:1 includes the 10 per cent design excellence bonus. These amendments were made in response to submissions, but also owing to further overshadowing assessment prepared by the City, that showed the exhibited envelope having an overshadowing impact on private open space. The City's overshadowing analysis is provided in an addendum appended to this planning proposal. It is considered that with the amendments the planning proposal demonstrates site-specific merit.

The proposed envelope (as amended) has three different, tiered heights that each respond to a different design constraint:

- the first, lowest step, RL 40 metres at the site's southern portion, retains the buildings existing height and ensures that the building's important visual relationship with the intersection is unchanged;
- the next, middle step, RL 47.2 metres, requires the future additional floor(s) to include a southern setback that prevents overshadowing from being caused to private open space, to any extent more than what current controls allow; and
- the last, highest step, RL 50.5 aligns with the building adjacent to the north, providing visual consistency along the street walls of Commonwealth Street and Hunt Street.

These proposed heights will also maintain the relationship to heritage items within the site's immediate vicinity including the 3 storey Paramount Hotel to the east and the 3 storey Hollywood Hotel to the northwest. The existing building on the site at 3 storeys is slightly higher than the buildings to the west but closely matches the Paramount Hotel. This height is to be retained at the southern part of the site. Maintaining the as-built height of the southern portion of the height aligns with the lower scale 2 storey terraces to the south.

The proposed maximum FSR of 4.5:1, which includes the 10 per cent design excellence bonus, will enable a level of flexibility within the envelope to enable building articulation and the future design to meet the objectives at the development application stage e.g. the setback relationship to the adjoining property to the north.

The increase in FSR does not require additional infrastructure to support the proposal. The site is already supported by adequate transport and civil infrastructure, including having good access to public and active transport as well as provisions for services and utilities.

An indicative envelope showing the proposed controls post-exhibition is shown below at Figure 11.

## Figure 8. Existing built form, oblique view from southeast

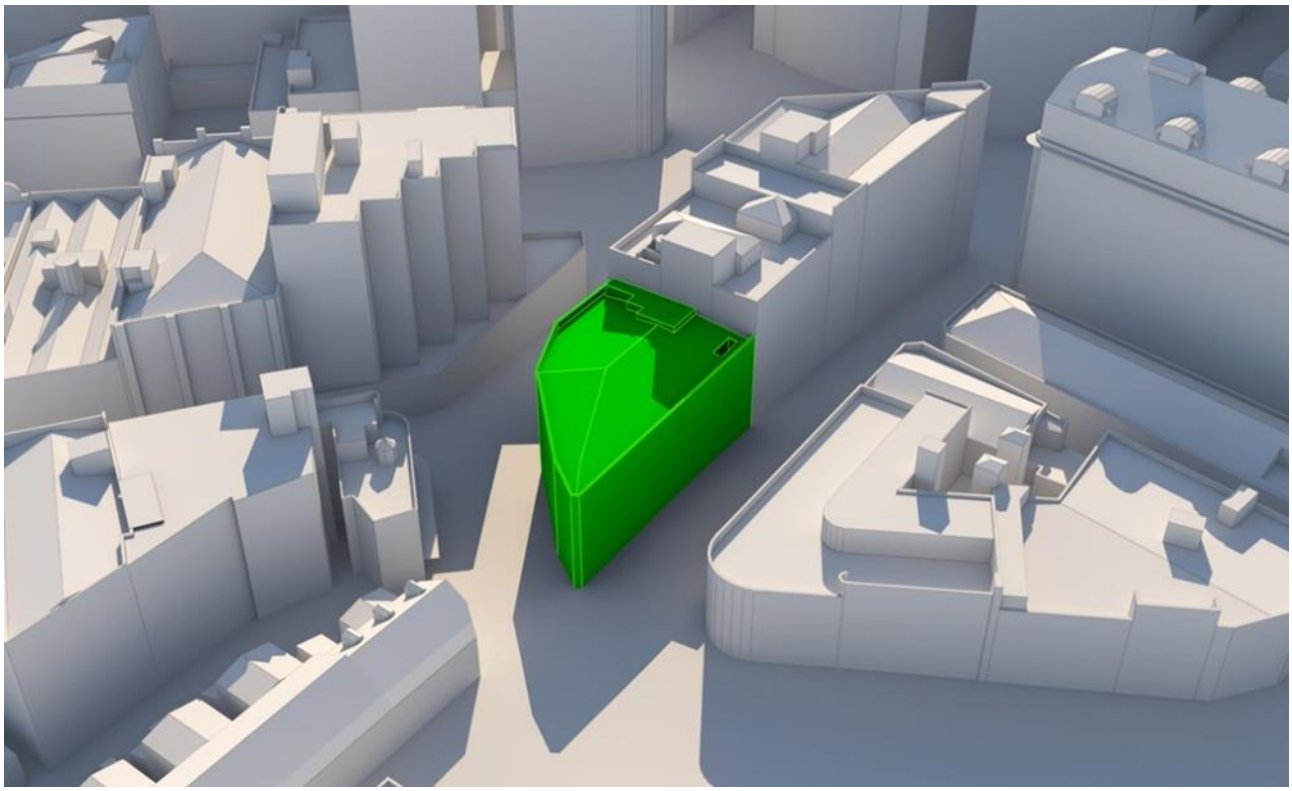
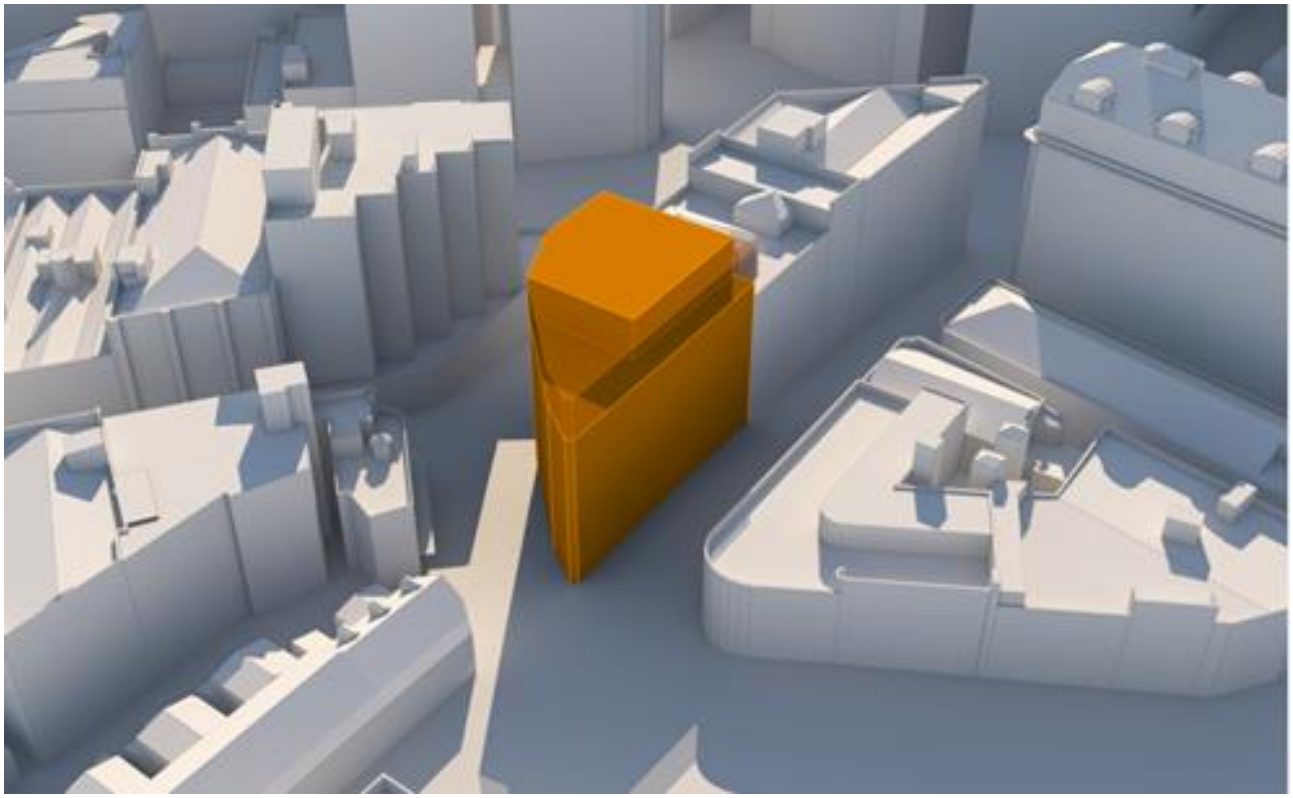
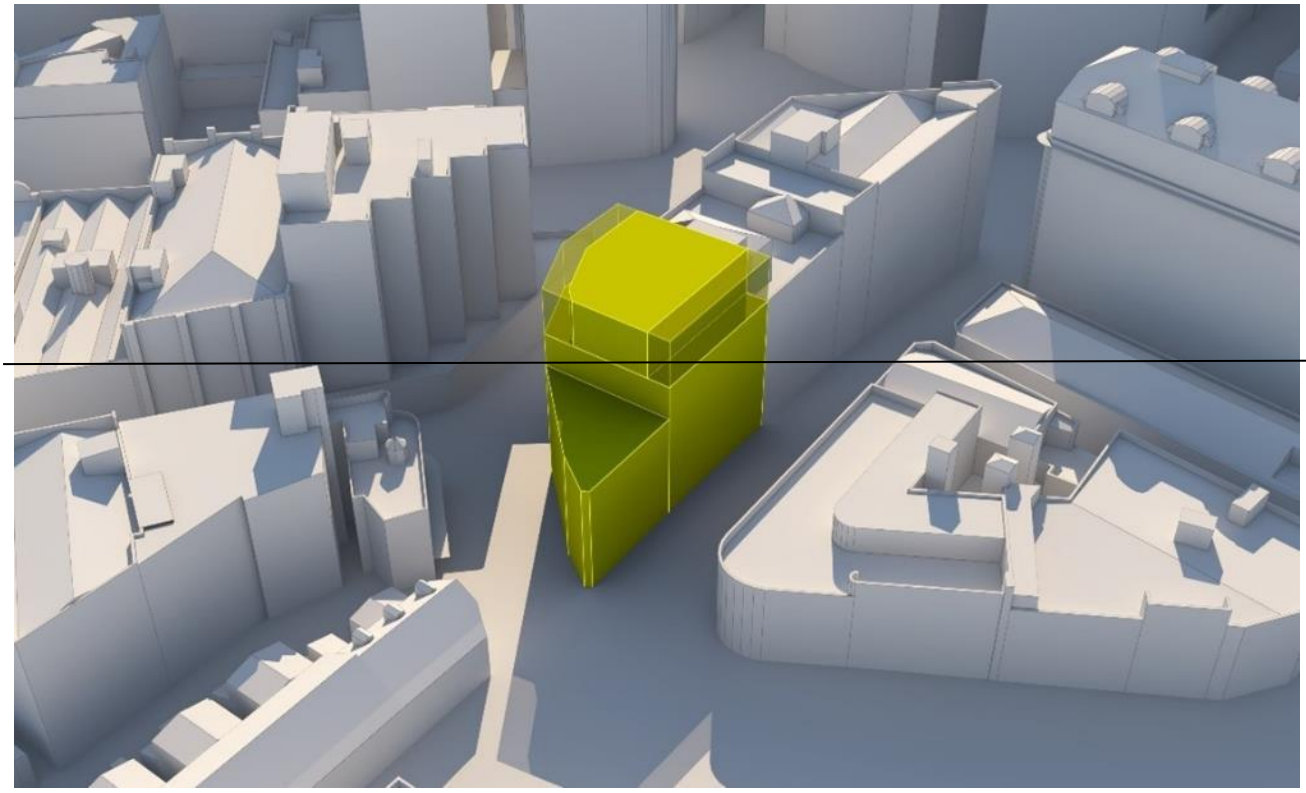


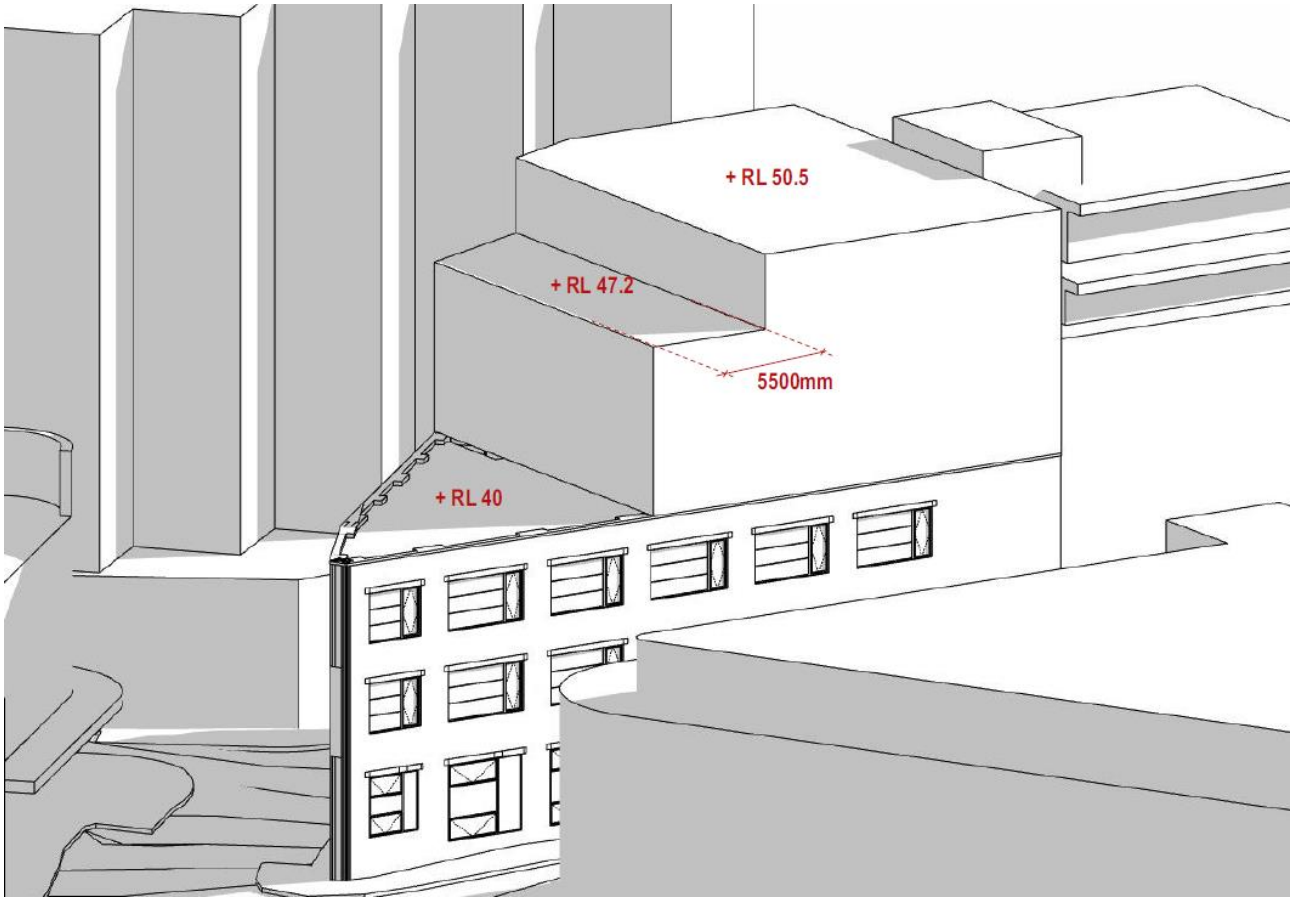
Figure 9. Building envelope resulting from proponent's request, oblique view from southeast



~~Figure 10. Building envelope resulting from the *exhibited* planning proposal, oblique view from southeast~~



## Figure 11. Building envelope resulting from the post-exhibition planning proposal, oblique view from southeast




## Section A – Need for the planning proposal

| Question | City response |
|---|---|
| Q1. Is the planning proposal a result of any strategic study or report? | The planning proposal is consistent with City Plan 2036 which encourages the provision of employment opportunities areas such as the City Fringe. |
| Q2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way? | Yes, the main objective of this planning proposal is to allow for the minor expansion of an existing commercial use by inserting a new provision in Division 5 of the Sydney LEP for additional floor space and making a corresponding amendment to the Alternative Height of Buildings Map.<br>A planning proposal is required for both of the above and is therefore considered the best means of achieving the objectives and intended outcomes. |

## Section B1 – Relationship to the strategic planning framework

| Question | City response |
|---|---|
| Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and the exhibited draft strategies)? | Yes. The Greater Sydney Region Plan and the Eastern District City Plan are both prepared by the NSW Government and are the regional plans relevant to the site.<br>This planning proposal aligns with the objectives of these strategies, particularly those around the creation of additional employment floorspace in central areas with existing accessibility and public infrastructure. |
| Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan? | Yes. The City's vision for land use and planning is set out within City Plan 2036, the City's local strategic planning statement, and Sustainable Sydney 2030-2050. This planning proposal aligns with key priorities of City Plan 2036, namely:<br>• Priority I2, 'aligning development and growth with supporting infrastructure,'<br>• Productivity P2, 'developing innovative and diverse business clusters in City Fringe' |
| Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies (SEPPs). | Yes, this planning proposal is consistent with applicable SEPPs. See Section B2. |
| Q6. Is the planning proposal consistent with applicable Ministerial Directions (s9.1 directions)? | Yes, this planning proposal is consistent with applicable Ministerial Directions. See Section B3. |

## Section B2 – Assessment of planning proposal against applicable SEPPs

| SEPP | Comment |
|---|---|
| SEPP (Biodiversity and Conservation) 2021 | This planning proposal is consistent. |
| SEPP (Building Sustainability Index: BASIX) 2004 | Not applicable to this proposal. |
| SEPP (Exempt and Complying Development Codes) 2008 | This planning proposal is consistent. |
| SEPP (Housing) 2021 | This planning proposal is consistent. |

| SEPP | Comment |
|---|---|
| SEPP (Industry and Employment) 2021 | This planning proposal is consistent. |
| SEPP (Planning Systems) 2021 | This planning proposal is consistent. |
| SEPP (Precincts–Central River City) 2021 | Not applicable to this proposal. |
| SEPP (Precincts–Eastern Harbour City) 2021 | This planning proposal is consistent. |
| SEPP (Precincts–Regional) 2021 | Not applicable to this proposal. |
| SEPP (Precincts–Western Parkland City) 2021 | Not applicable to this proposal. |
| SEPP (Primary Production) 2021 | Not applicable to this proposal |
| SEPP (Resilience and Hazards) 2021 | This planning proposal is consistent. |
| SEPP (Resources and Energy) 2021 | This planning proposal is consistent |
| SEPP No 65 - Design Quality of Residential Flat Development | Not applicable to this proposal. |
| SEPP (Transport and Infrastructure) 2021 | This planning proposal is consistent |

## Section B3 – Assessment of planning proposal against applicable Ministerial Directions

| Ministerial Direction | Response |
|---|---|
| Ministerial Direction 1.1<br>Implementation of Regional Plans | Consistent. The planning proposal will give effect to objectives and priorities of the Greater Sydney Region Plan as detailed in response to Q3 above. |
| Ministerial Direction 1.2<br>Development of Aboriginal Land Council Land | Not applicable. |
| Ministerial Direction 1.3<br>Approval and Referral Requirements | Consistent. The planning proposal does not include provisions that require the concurrence, consultation or referral of any future development application to a Minister or public authority. Future development in accordance with the proposed amendments will not be designated development. |
| Ministerial Direction 1.4<br>Site Specific Provisions | Consistent. The planning proposal does unnecessarily restrict the permitted uses on the land. The planning proposal provides development uplift for a range of commercial uses. This is consistent with strategic priorities for the area. Development that does not make use of the |

| Ministerial Direction | Response |
|---|---|
| | uplift provided by the planning proposal can continue to make use of the full range of uses permitted in the MU1 zone. |
| Ministerial Direction 1.5<br>Parramatta Road Urban Transformation Strategy | Not applicable. |
| Ministerial Direction 1.6<br>Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan | Not applicable. |
| Ministerial Direction 1.7<br>Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | Not applicable. |
| Ministerial Direction 1.8<br>Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan | Not applicable. |
| Ministerial Direction 1.9<br>Implementation of Glenfield to Macarthur Urban Renewal Corridor | Not applicable. |
| Ministerial Direction 1.10<br>Implementation of the Western Sydney Aerotropolis Plan | Not applicable. |
| Ministerial Direction 1.11<br>Implementation of Bayside West Precincts 2036 Plan | Not applicable. |
| Ministerial Direction 1.12<br>Implementation of Planning Principles for the Cooks Cove Precinct | Not applicable. |
| Ministerial Direction 1.13<br>Implementation of St Leonards and Crows Nest 2036 Plan | Not applicable. |
| Ministerial Direction 1.14 | Not applicable. |

| Ministerial Direction | Response |
|---|---|
| Implementation of Greater Macarthur 2040 | |
| Ministerial Direction 1.15<br>Implementation of the Pyrmont Peninsula Place Strategy | Not applicable. |
| Ministerial Direction 1.16<br>North West Rail Link Corridor Strategy | Not applicable. |
| Ministerial Direction 1.17<br>Implementation of the Bays West Place Strategy | Not applicable. |
| 1.18 Implementation of the Macquarie Park Innovation Precinct | Not applicable. |
| Ministerial Direction 1.19<br>Implementation of the Westmead Place Strategy | Not applicable. |
| Ministerial Direction 1.20<br>Implementation of the Camellia-Rosehill Place Strategy | Not applicable. |
| Ministerial Direction 1.21<br>Implementation of the South West Growth Area Structure Plan | Not applicable. |
| Ministerial Direction 1.22<br>Implementation of the Cherrybrook Station Place Strategy | Not applicable. |
| Ministerial Direction 3.1<br>Conservation Zones | Not applicable. |
| Ministerial Direction 3.2<br>Heritage Conservation | Consistent. No heritage items are identified on the site and the site is not located within a heritage conservation area. Additionally, the planning proposal considers impacts on adjacent heritage items. |
| Ministerial Direction 3.3<br>Sydney Drinking Water Catchments | Not applicable. |
| Ministerial Direction 3.4 | Not applicable. |

| Ministerial Direction | Response |
|---|---|
| Application of C2 and C3 Zones and Environmental Overlays in Far North Coast LEPs | |
| Ministerial Direction 3.5<br>Recreation Vehicle Area | Not applicable. |
| Ministerial Direction 3.6<br>Strategic Conservation Planning | Not applicable. |
| Ministerial Direction 3.7<br>Public Bushland | Not applicable. |
| Ministerial Direction 3.8<br>Willandra Lakes Region | Not applicable. |
| Ministerial Direction 3.9<br>Sydney Harbour Foreshores and Waterways Area | Not applicable. |
| Ministerial Direction 3.10<br>Water Catchment Protection | Not applicable. |
| Ministerial Direction 4.1<br>Flooding | Consistent. The land is not identified as flood affected. |
| Ministerial Direction 4.2<br>Coastal Management | Not applicable. |
| Ministerial Direction 4.3<br>Planning for Bushfire Protection | Not applicable. |
| Ministerial Direction 4.4<br>Remediation of Contaminated Land | Consistent. The land is currently fully developed and hosts an existing commercial use. This planning proposal allows for additional stories on top of the existing building. If needed a detailed contamination assessment can be carried out at the development application stage. |
| Ministerial Direction 4.5<br>Acid Sulfate Soils | Consistent. The site is located on land identified as Class 5 Acid Sulfate Soils as per the Acid Sulfate Soils Map in the LEP. The nearest Class 2 areas to the site are located 610m to its east, south of Darling Harbour, and 690m to its north, in Woolloomooloo, near William Street.<br><br>The planning proposal will not incentivise residential development and is only to facilitate an addition to the building at its upper levels. |

| Ministerial Direction | Response |
|---|---|
| | The planning proposal was accompanied by a Preliminary Structural Statement which advised that improvements to the footings and associated works may be required. A detailed Geotechnical Statement will accompany the detailed development application. The Statement will appropriately respond to the presence of acid sulfate soils, as well as detail how works will avoid their disturbance or impact on neighbouring sensitive uses. |
| Ministerial Direction 4.6<br>Mine Subsidence and Unstable Land | Not applicable. |
| Ministerial Direction 5.1<br>Integrating Land Use and Transport | Consistent. The site is located in an area that is well serviced by existing public and private transport options. |
| Ministerial Direction 5.2<br>Reserving Land for Public Purpose | Not applicable. |
| Ministerial Direction 5.3<br>Development Near Regulated Airports and Defence Airfields | Not applicable. |
| Ministerial Direction 5.4<br>Shooting Ranges | Not applicable. |
| Ministerial Direction 6.1<br>Residential Zones | Consistent. The planning proposal does not prevent a residential use from occurring on the site under the current zoning and development standards. The planning proposal allows additional development to encourage commercial uses. |
| Ministerial Direction 6.2<br>Caravan Parks and Manufactured Home Estates | Not applicable. |
| Ministerial Direction 7.1<br>Business and Industrial Zones | Consistent. The planning proposal will encourage employment growth in a suitable location, as well as protect and support the viability of an area prioritised for commercial uses. |
| Ministerial Direction 7.2<br>Reduction in non-hosted short-term rental accommodation period | Not applicable. |
| Ministerial Direction 7.3 | Not applicable. |

| Ministerial Direction | Response |
|---|---|
| Commercial and Retail Development along the Pacific Highway, North Coast | |
| Ministerial Direction 8.1<br>Mining, Petroleum Production and Extractive Industries | Not applicable. |
| Ministerial Direction 9.1<br>Rural Zones | Not applicable. |
| Ministerial Direction 9.2<br>Rural Lands | Not applicable. |
| Ministerial Direction 9.3<br>Oyster Aquaculture | Not applicable. |
| Ministerial Direction 9.4<br>Farmland of State Regional Significance on the NSW Far North Coast | Not applicable. |

## Section C – Environmental, social and economic impact

| Question | City response |
|---|---|
| Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal? | No. This planning proposal would not significantly change the intensity of the use or development on the site. It is noted as well that the site is in a highly urbanised area and features no significant vegetation. |
| Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed? | No. As above, this planning proposal is for an increase in the amount of commercial floorspace available to an existing commercial use in a highly developed area. Any significant environmental effects would be adequately addressed by a future development application process. |
| Q9. Has the planning proposal adequately addressed any social and environmental effects? | This planning proposal will not result in any significant change to the planning controls, or the intensity of that use. No social or environmental effects are likely as an outcome of this proposal. |

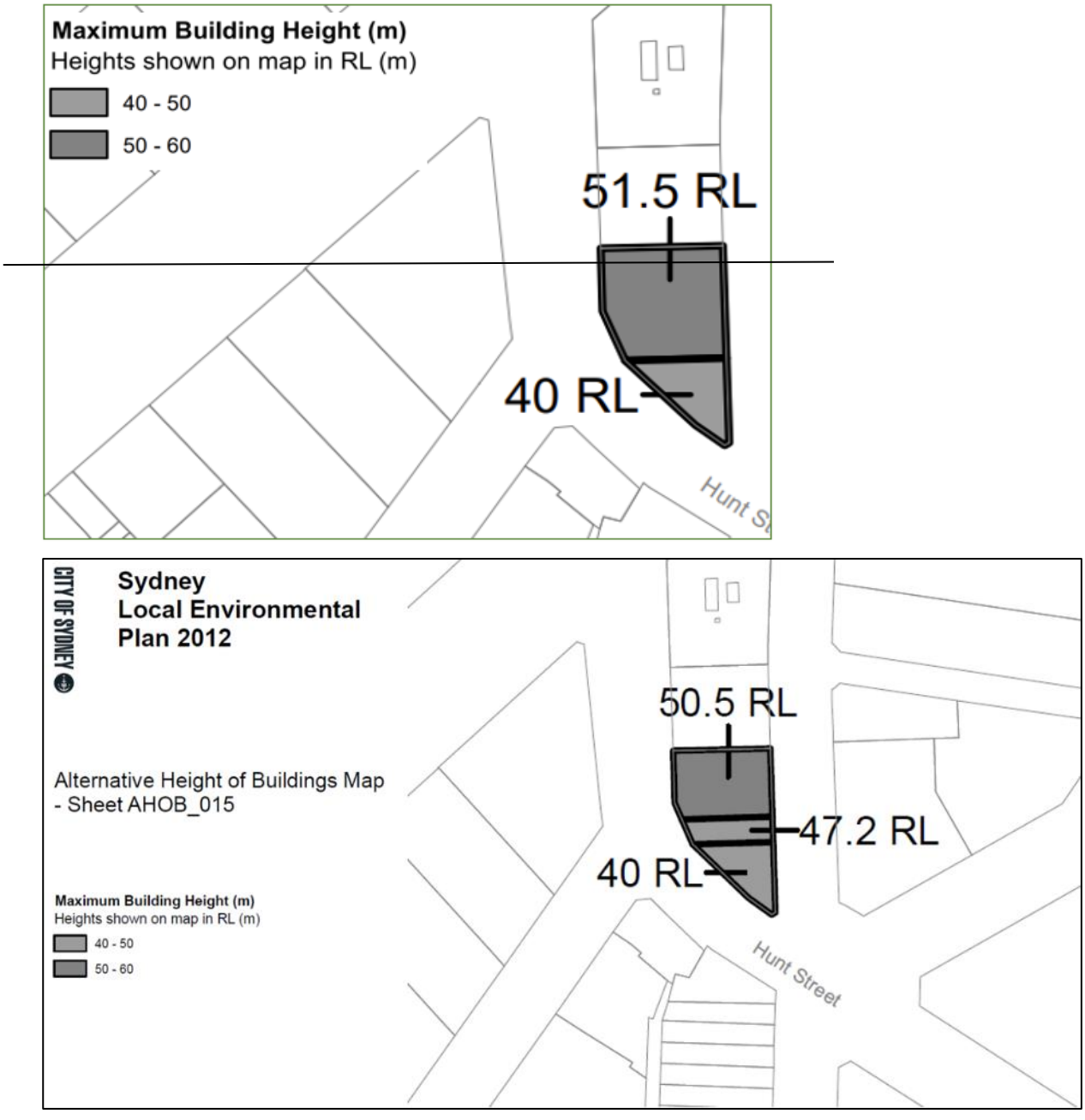
## Section D – State and Commonwealth interests

| Question | City response |
|---|---|
| Q10. Is there adequate public infrastructure for the planning proposal? | Yes, there is adequate public infrastructure to support this planning proposal. It is noted that the site is located within close proximity to existing public and active transport infrastructure. |
| Q11. What are the views of the State and Commonwealth public authorities consulted in accordance with the Gateway determination? | The Gateway Determination will identify the public authorities to be consulted as part of the planning proposal process and any views expressed will be included in this planning proposal following consultation. Formal consultation has not yet commenced. |

# 6. Mapping

To support the new provisions it is proposed to amend sheet HOB_015 of the Alternative Height of Building Map adopted by the Sydney LEP, to identify the increased maximum building height described above (see Figure 11). The increased maximum FSR will be expressed in the text of Sydney LEP, linked to use, and not mapped.

## Figure 12. Proposed amendment to the Alternative Height of Building Maps



# 7. Community consultation

This planning proposal is to be exhibited in accordance with the Gateway Determination once issued by the Department of Planning and Environment.

It is anticipated that the Gateway Determination will require public exhibition for a period of not less than 20 working days in accordance with the Environmental Planning and Assessment Act 1979 and s4.5 of the Department's guide to Preparing Local Environmental Plans.

Notification of the public exhibition will be consistent with the Gateway Determination and the City's Community Participation Plan. This will include publication on the City of Sydney website and notification via letters to surrounding owners and occupiers.

Consultation with relevant NSW agencies, authorities, and other referred entities will be undertaken if and where needed and in accordance with the Gateway Determination.

The planning proposal was exhibited in accordance with the above, for 20 working days between 21 August and 18 September 2023. 17 submissions were received in response to exhibition. Matters raised in submissions are summarised and responded to in the post-exhibition report to Council, and the amendments to the planning proposal are detailed in the above.

# 8. Project timeline

The anticipated timeline for the completion of the planning proposal is as follows:

| Stage | Timeframe |
|---|---|
| Commencement / Gateway Determination | June 2023 |
| Public exhibition | ~~July 2023~~<br>August-September 2023 |
| Consideration of submissions | ~~August-September 2023~~<br>September-October 2023 |
| Post-exhibition consideration of proposal | ***November*** 2023 |
| Draft and finalise LEP | November-December 2023 |
| LEP made | January 2024 |
| Plan forwarded to the Department of Planning and Environment for notification | January 2024 |

# Addendum to Planning Proposal – 85-93 Commonwealth Street, Surry Hills

## Summary

The City has undertaken more work on whether a building under the proposed controls will overshadow Harmony Park and the terraces at 95-99 Commonwealth Street.

The work found that the studies prepared by the proponent were incorrect.

It also found that a building built to the full height allowed under the proposed controls would create additional overshadowing compared to the current controls.

The additional overshadowing is to:

1. the private open space (raised terrace) of the residential terrace at 97 Commonwealth Street between 10:30 and 11:30am, and
2. part of Harmony Park from 2:15pm at its south west corner (Brisbane and Commonwealth Streets).

The City will review the proposal and overshadowing impacts following public exhibition.

## Background

This addendum accompanies a planning proposal for 85-93 Commonwealth Street, Surry Hills.

The planning proposal will amend the Sydney Local Environmental Plan 2012 (LEP) by inserting provisions that increase the maximum height to RL 51.5 and FSR to 4.5 on the affected land, subject to development being for a commercial use only. The Central Sydney Planning Committee on 11 May 2023 and Council on 15 May 2023 resolved to approve the planning proposal for public exhibition and request a Gateway determination.

The purpose of this addendum is to provide a detailed and accurate assessment of the overshadowing caused by the proposed envelope. It is supplementary to the planning proposal, which incorrectly states that the proposed envelope will not cause additional overshadowing to private open space. This error was made due to incorrect overshadowing analysis provided by the proponent in their urban design report, as part of their planning proposal request.

The proponent's request was for a larger envelope without setbacks. Their urban design report stated the larger envelope would not overshadow private open space. Through the planning proposal process the City reduced this larger envelope to improve its consistency with the built form of the surrounding context. Overshadowing analysis was not undertaken as the impact is reduced with the reduction in the envelope.

Because of the City's reduction to the proponent's requested envelope, the Department of Planning in their Gateway determination, issued on 21 June 2023, included a condition to "include shadow analysis demonstrating any additional overshadowing of the private open space of the residential terraces on Commonwealth Street and Harmony Park".

**Findings**

This analysis was prepared by the City and is provided below. It determines that the proposed envelope will cause some additional overshadowing to:

1. the private open space of the residential terrace at 97 Commonwealth Street between 10:30 and 11:30am, and
2. Harmony Park from 2:15pm.

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# Assessment

The planning proposal is to increase the maximum building height on the northern portion of the site to RL 51.5 and increase the maximum FSR across the site to 4.5:1. The additional overshadowing from this envelope was tested by the City using 3D modelling, as well as a site visit to verify the modelling approach.

The modelling results are set out in 15-minute increments, summarised in Table 1 below, and presented in full between pages 8 and 30.

**Overshadowing impacts to the residential terrace's private open space**

South of the site there is a row of terrace dwellings along the western side of Commonwealth Street. The northernmost of these, no 95, is a commercial use. The remainder are residential dwellings. Each terrace has private open space in the form of a small backyard. The private open space of some terrace residences are raised above the ground level and sit above garages facing the rear Beauchamp Lane. The height of these garages, and the private open space, increases their exposure to overshadowing impacts (see Figures 1 and 2 below).

The modelling shows that the proposed envelope will overshadow the private open space of the terrace dwelling at 97 Commonwealth Street between 10:30 and 11:30am on 21 June. The area overshadowed is limited to a portion of the southeastern corner of the private open space.

*Figure 1. An indicative satellite photo showing the site in relation to the raised private open space at 97 Commonwealth Street. Source: Nearmap, 2023.*

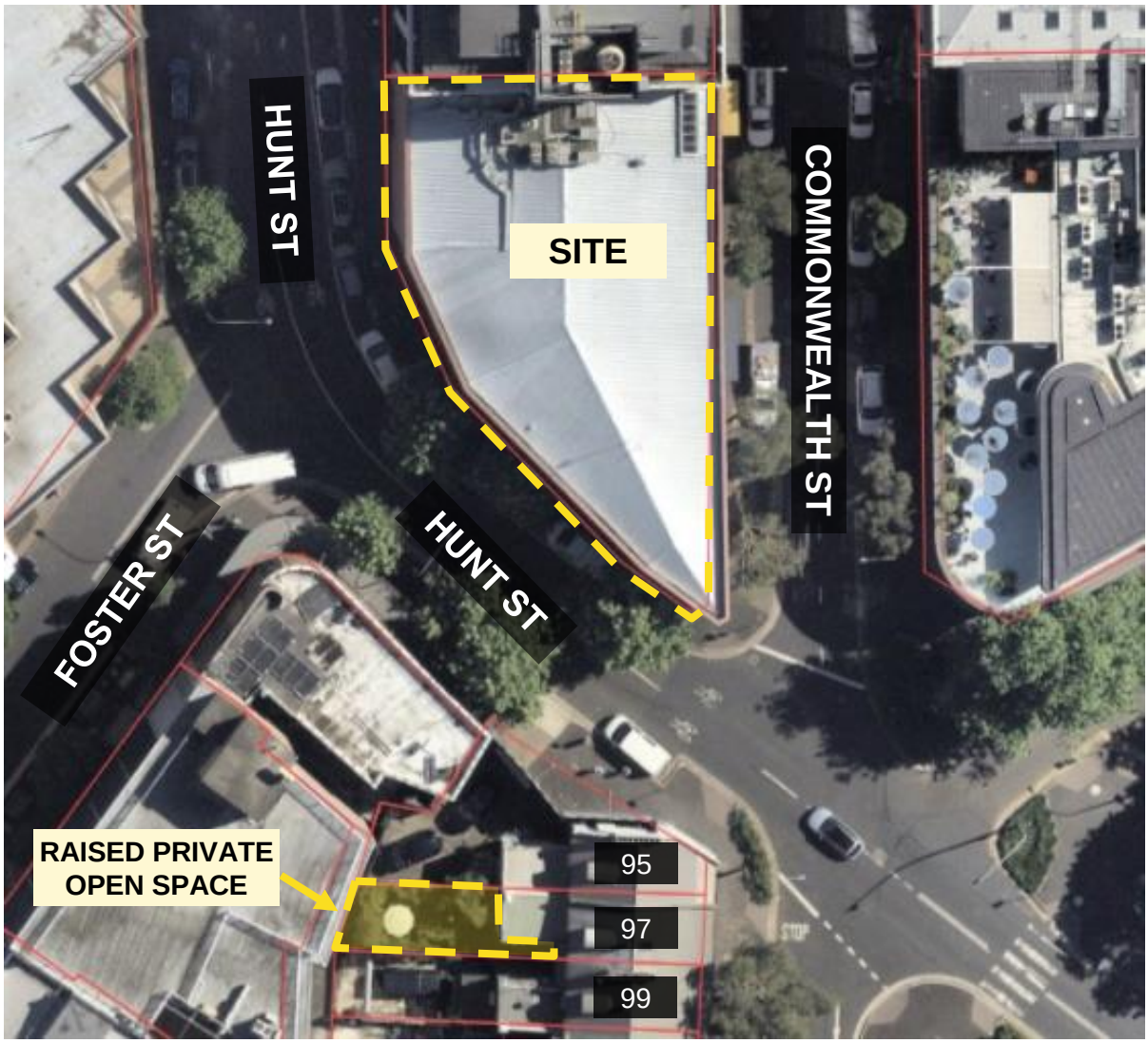


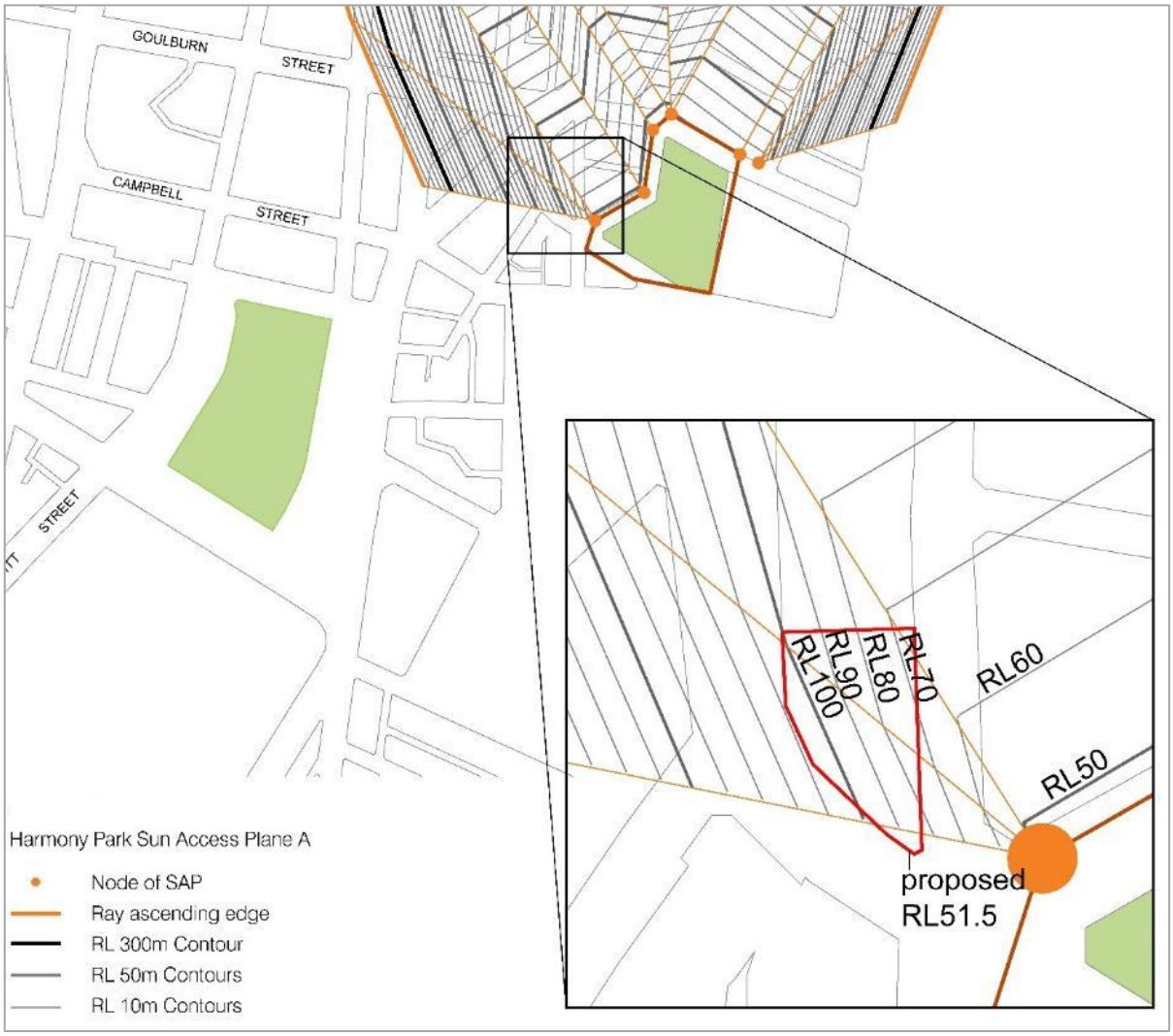
*Figure 2. A photo of the raised terrace at the rear of 97 Commonwealth Street. Source: City of Sydney, 2023.*



**Overshadowing impacts to Harmony Park**

The proposed envelope was assessed against Harmony Park's sun access plane provisions during earlier planning proposal work. Harmony Park's protected times under sun access plane provisions are 10am to 2pm year-round. The modelling results show that the proposal will not overshadow any part of Harmony Park between these times, reaffirming that the proposed heights comply with Harmony Park's sun access plane provisions. The proposal's compliance with these provisions is illustrated indicatively in Figure 3 below.

*Figure 3. An indicative illustration demonstrating the envelope's compliance with Harmony Park's sun access plane*




The modelling results show the proposed envelope will overshadow the southwest corner of the park for a short period during the afternoon (from approx 2:15pm) on 21 June. The small area of the park affected by the overshadowing is predominantly paved due to the chamfering of the turfed area (see Figures 4 and 5). This limits any detrimental impacts on vegetation or the enjoyment of the park's grassed areas. Any additional overshadowing caused to Harmony Park is outside of the times protected by the sun access plane provisions.

*Figure 4. The southwest corner of Harmony Park, looking southwest from Brisbane Street. Source: Google Maps, 2023.*




*Figure 5. The southwest corner of Harmony Park, looking northeast from Hunt Street. Source: Google Maps, 2023.*



# Table 1. Comparison of additional overshadowing caused by different envelopes to private open space

| Time of day<br><br>21 June | Additional overshadowing caused to terrace dwelling at 97 Commonwealth Street<br><br>Existing building | Existing LEP (compared with existing building) | Planning proposal (compared with existing LEP) |
|---|---|---|---|
| **9am** | No shadow | No additional shadow | No additional shadow |
| **9:15am** | No shadow | No additional shadow | No additional shadow |
| **9:30am** | Shadow | No additional shadow | No additional shadow |
| **9:45am** | Shadow | Additional shadow | No additional shadow |
| **10am** | No shadow | Additional shadow | No additional shadow |
| **10:15am** | No shadow | Additional shadow | No additional shadow |
| **10:30am** | No shadow | Additional shadow | Additional shadow |
| **10:45am** | No shadow | Additional shadow | Additional shadow |
| **11am** | No shadow | No additional shadow | Additional shadow |
| **11:15am** | No shadow | No additional shadow | Additional shadow |
| **11:30am** | No shadow | No additional shadow | Additional shadow |
| **11:45am** | No shadow | No additional shadow | No additional shadow |
| **12pm** | No shadow | No additional shadow | No additional shadow |
| **12:15pm** | No shadow | No additional shadow | No additional shadow |
| **12:30pm** | No shadow | No additional shadow | No additional shadow |
| **12:45pm** | No shadow | No additional shadow | No additional shadow |
| **1pm** | No shadow | No additional shadow | No additional shadow |
| **1:15pm** | No shadow | No additional shadow | No additional shadow |
| **1:30pm** | No shadow | No additional shadow | No additional shadow |
| **1:45pm** | No shadow | No additional shadow | No additional shadow |
| **2pm** | No shadow | No additional shadow | No additional shadow |
| **2:15pm** | No shadow | No additional shadow | No additional shadow |
| **2:30pm** | No shadow | No additional shadow | No additional shadow |
| **2:45pm** | No shadow | No additional shadow | No additional shadow |
| **3pm** | No shadow | No additional shadow | No additional shadow |
| **3:15pm** | No shadow | No additional shadow | No additional shadow |
| **Total time** | 30min | 1hr | 1hr |

# Overshadowing modelling results

The overshadowing impacts of three different envelopes are compared over the subsequent pages, using two different scales.

Rather than compare the additional overshadowing created by the planning proposal envelope with that from the existing building, the planning proposal envelope is compared with what is currently permissible under the LEP. That is, the proposed controls are compared with the existing controls, not the existing building. This draws a clearer comparison between the overshadowing amounts.

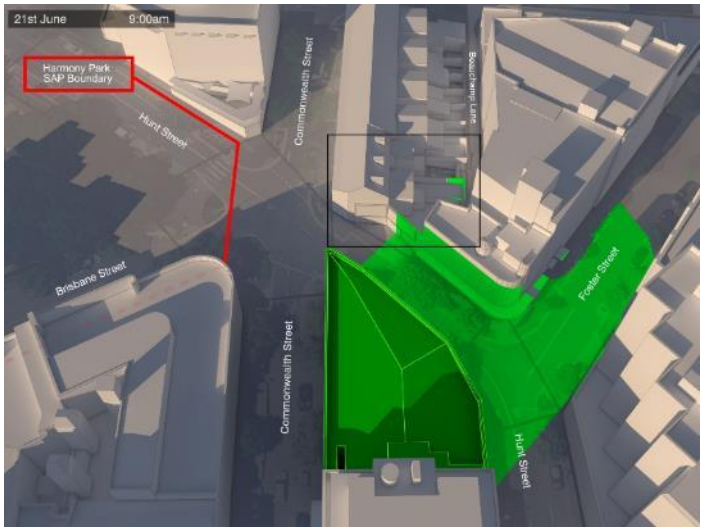
The three envelopes assessed are:

- that of the existing building (with current overshadowing shown in **green**),
- that of the maximum permissible LEP envelope (with additional overshadowing shown in **blue**), and
- the planning proposal envelope (with additional overshadowing created shown in **orange**).

It should be noted that the planning proposal includes a decrease in the maximum permissible LEP height on the south of the site, generating a slight reduction in overshadowing, while the increase in height at the northern portion of the site generates an increase in overshadowing. The overshadowing analysis should be read together as outlined below.

The two scales used are:

- a zoomed-out, oblique angle showing the overshadowing caused in terms of the site's general surrounds, including the terrace dwellings along Commonwealth Street and Harmony Park (pp 8-20); and
- a zoomed-in perspective focusing specifically on the additional overshadowing caused to the private open space of the residential dwelling at 97 Commonwealth Street (pp 21 to 31).



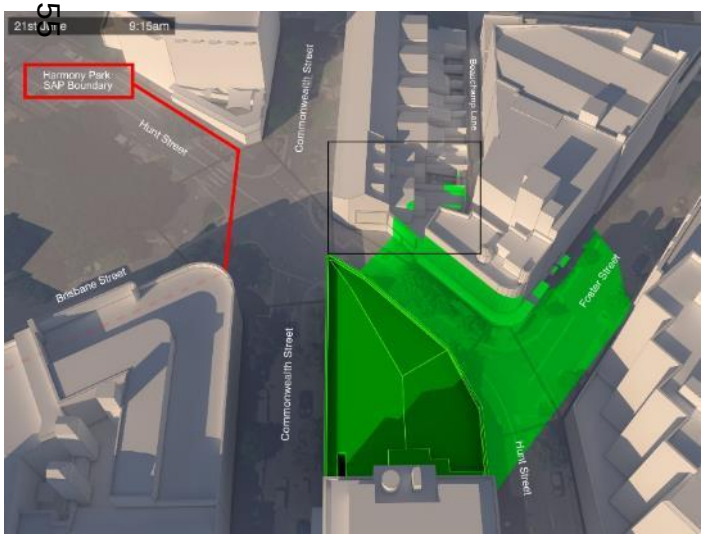

**9am - Existing building**




**9am - Existing LEP**




**9am - Planning proposal**




**9:15am – Existing building**




**9:15am – Existing LEP**




**9:15am – Planning proposal**



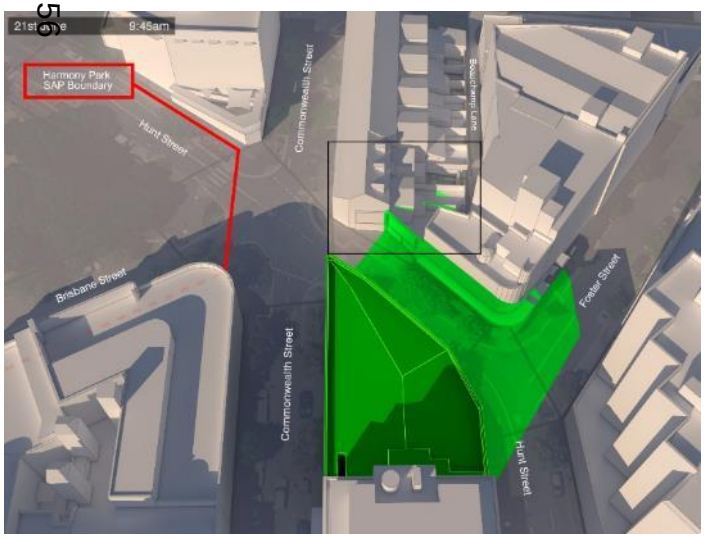

**9:30am - Existing building**




**9:30am - Existing LEP**




**9:30am - Planning proposal**




**9:45am – Existing building**



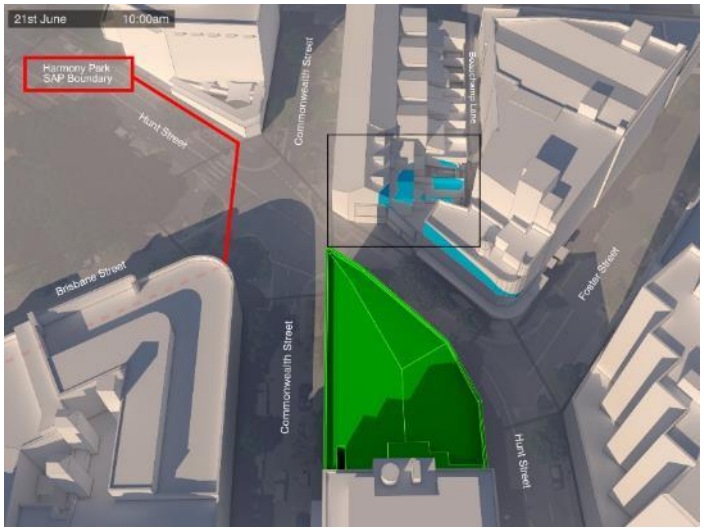

**9:45am – Existing LEP**




**9:45am – Planning proposal**



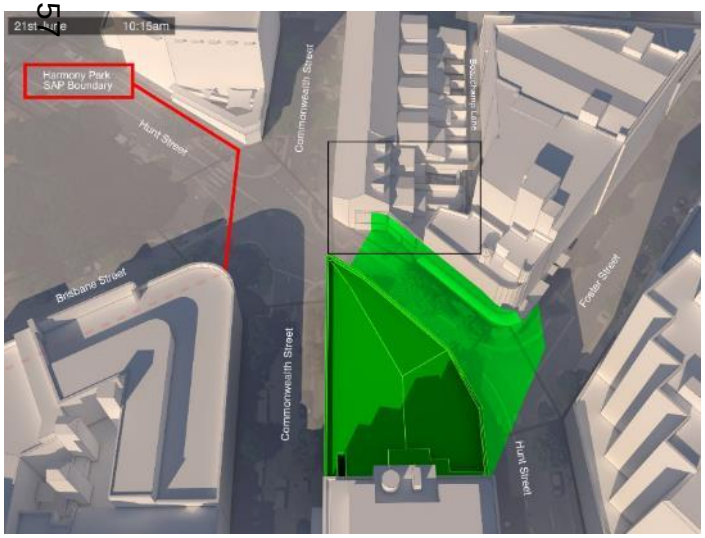

**10am - Existing building**



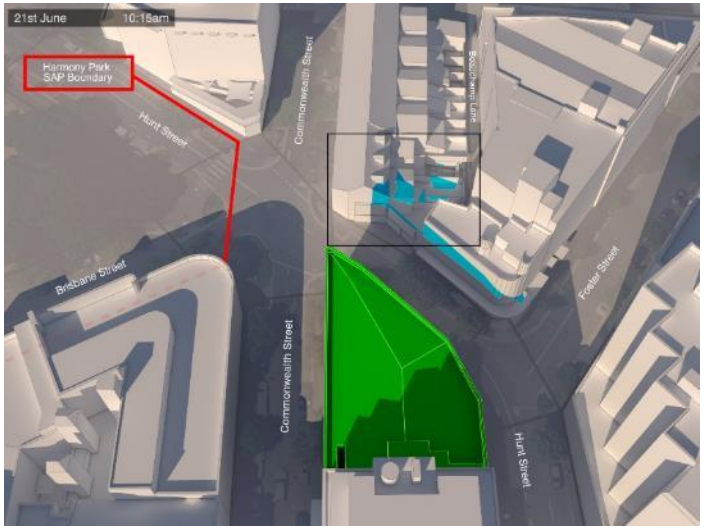

**10am - Existing LEP**



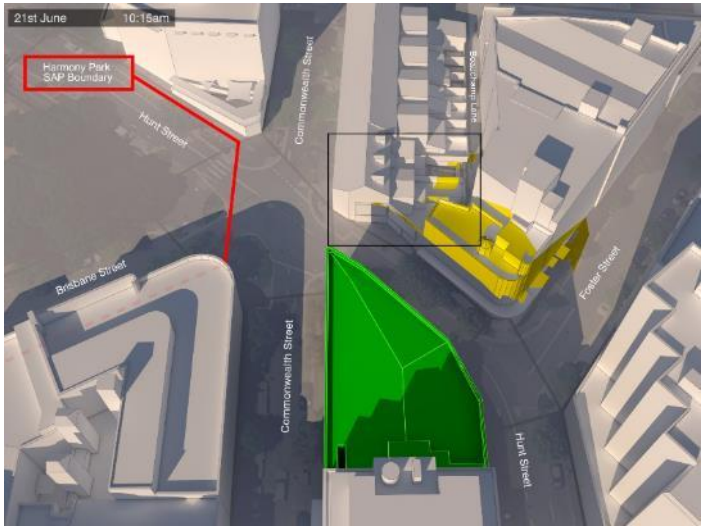

**10am - Planning proposal**



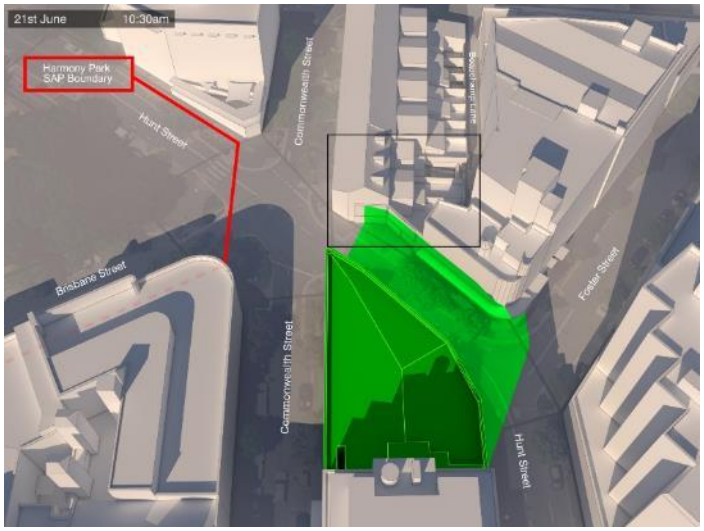

**10:15am – Existing building**




**10:15am – Existing LEP**




**10:15am – Planning proposal**



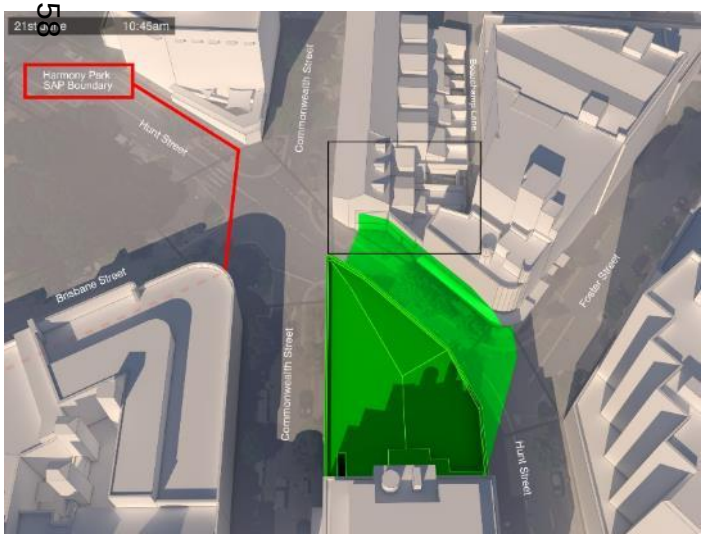

**10:30am - Existing building**




**10:30am - Existing LEP**




**10:30am - Planning proposal**




**9:15am – Existing building**




**10:45am – Existing LEP**




**10:45am – Planning proposal**



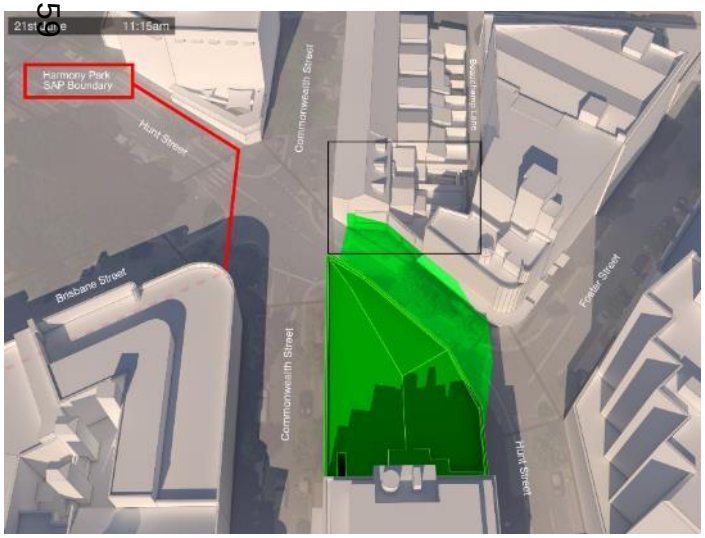

**11am - Existing building**




**11am - Existing LEP**




**11am - Planning proposal**




**11:15am – Existing building**




**11:15am – Existing LEP**




**11:15am – Planning proposal**




**11:30am - Existing building**




**11:30am - Existing LEP**




**11:30am - Planning proposal**




**11:45am – Existing building**




**11:45am – Existing LEP**




**11:45am – Planning proposal**



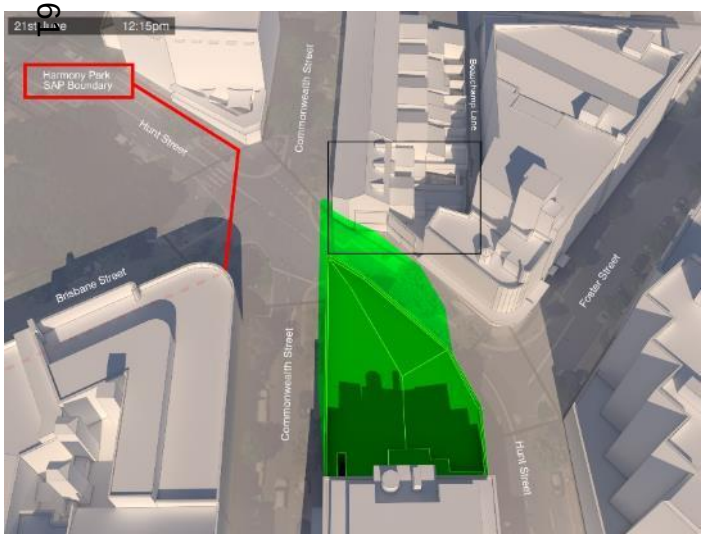

12 noon - Existing building




12 noon - Existing LEP




12 noon - Planning proposal




12:15pm – Existing building




12:15pm – Existing LEP




12:15pm – Planning proposal




12:30pm - Existing building




12:30pm - Existing LEP




12:30pm - Planning proposal



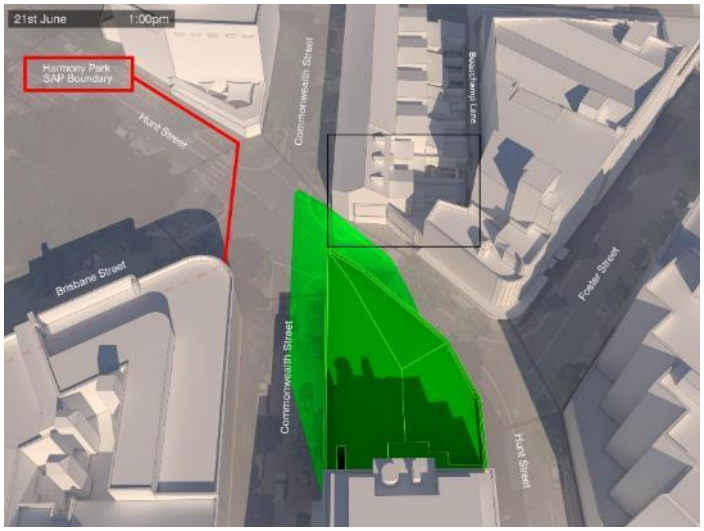

12:45pm – Existing building




12:45pm – Existing LEP



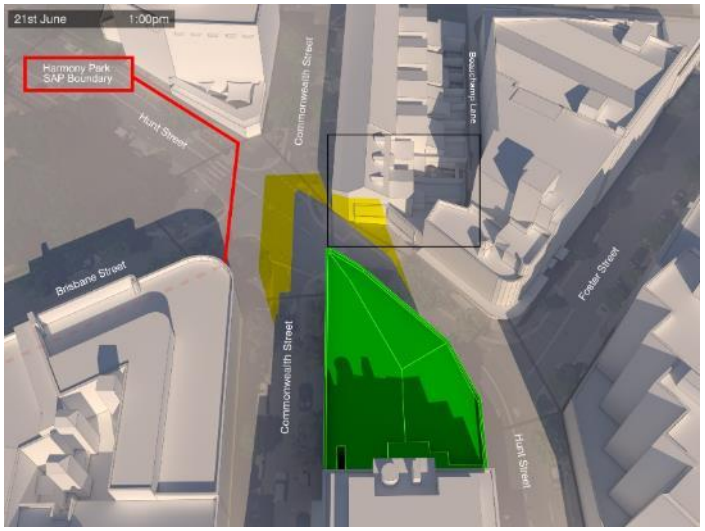

12:45pm – Planning proposal



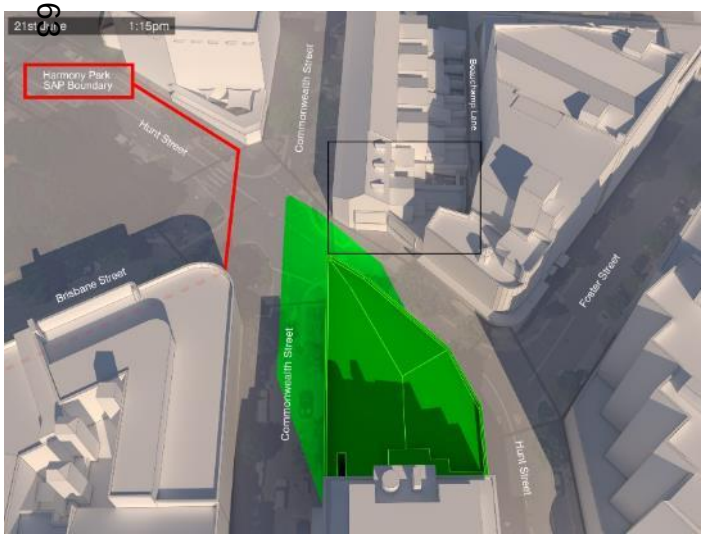

**1pm - Existing building**




**1pm - Existing LEP**




**1pm - Planning proposal**




**1:15pm – Existing building**




**1:15pm – Existing LEP**




**1:15pm – Planning proposal**




**1:30pm - Existing building**




**1:30pm - Existing LEP**




**1:30pm - Planning proposal**




**1:45pm – Existing building**




**1:45pm – Existing LEP**




**1:45pm – Planning proposal**




**2pm - Existing building**




**2pm - Existing LEP**




**2pm - Planning proposal**




**2:15pm – Existing building**




**2:15pm – Existing LEP**




**2:15pm – Planning proposal**




**2:30pm - Existing building**




**2:30pm - Existing LEP**




**2:30pm - Planning proposal**




**2:45pm – Existing building**




**2:45pm – Existing LEP**




**2:45pm – Planning proposal**




**3pm - Existing building**




**3pm - Existing LEP**




**3pm - Planning proposal**



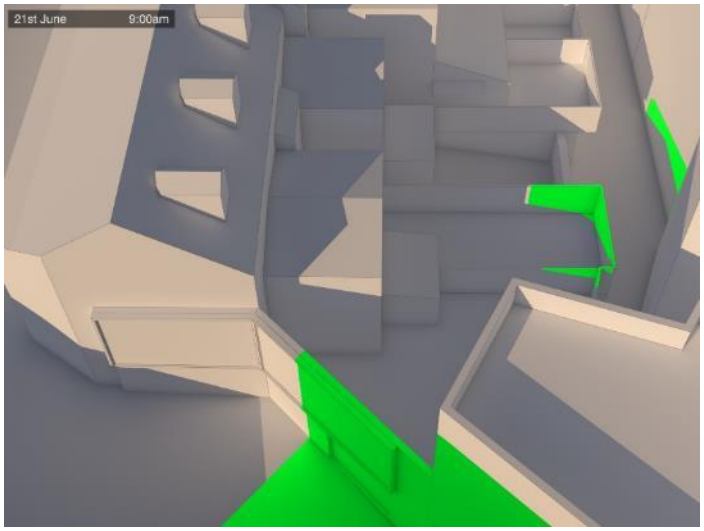

**3:15pm – Existing building**



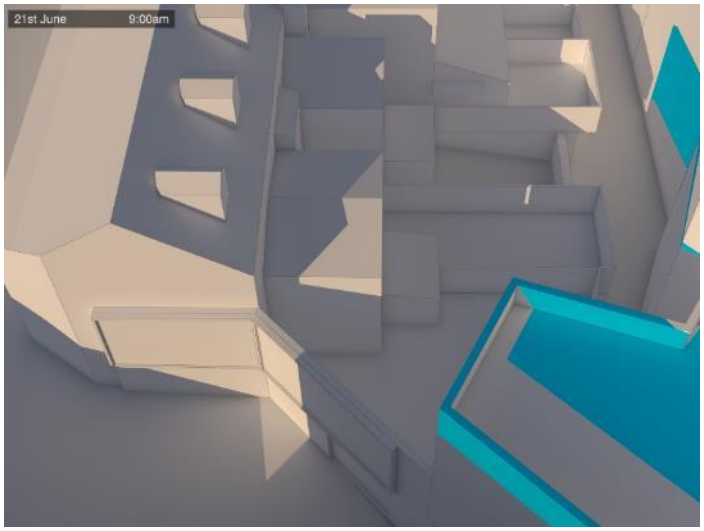

**3:15pm – Existing LEP**



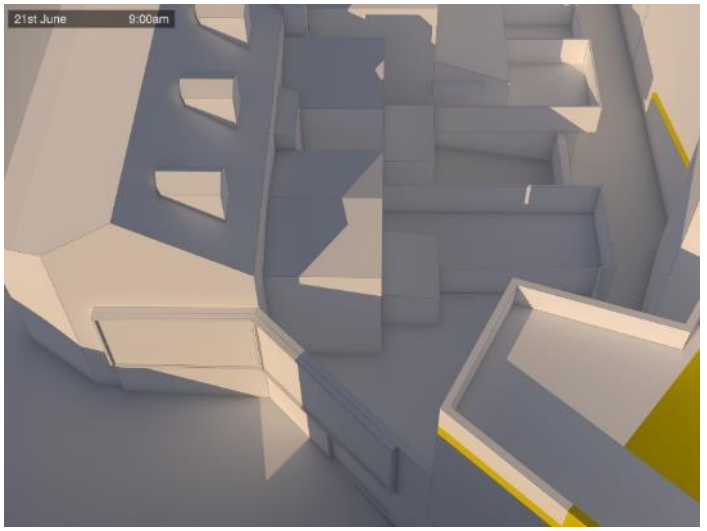

**3:15pm – Planning proposal**



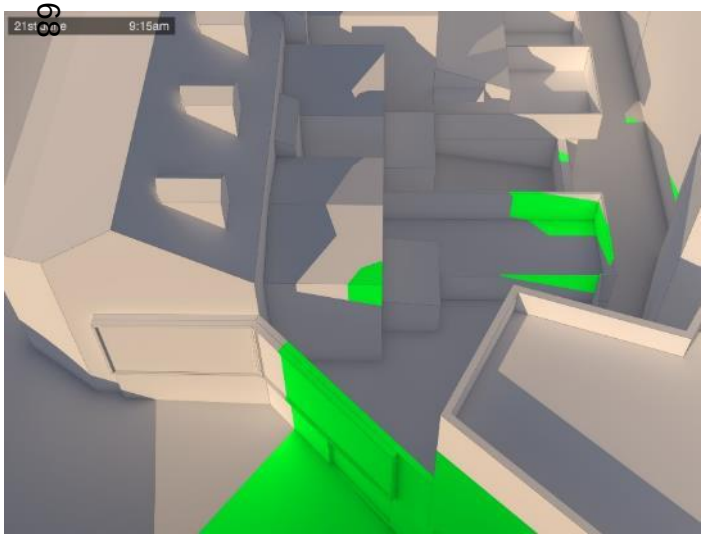

**9am - Existing building**



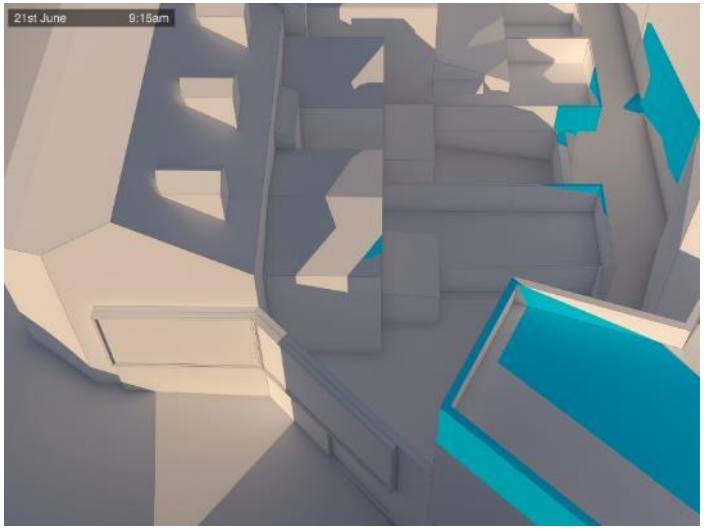

**9am - Existing LEP**



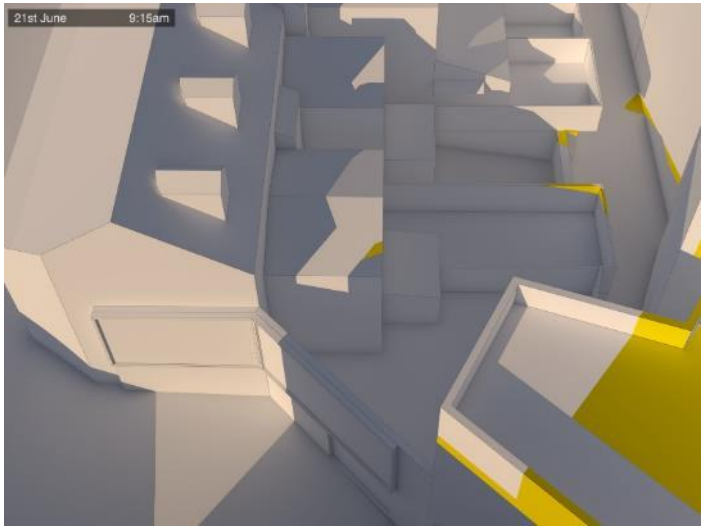

**9am - Planning proposal**



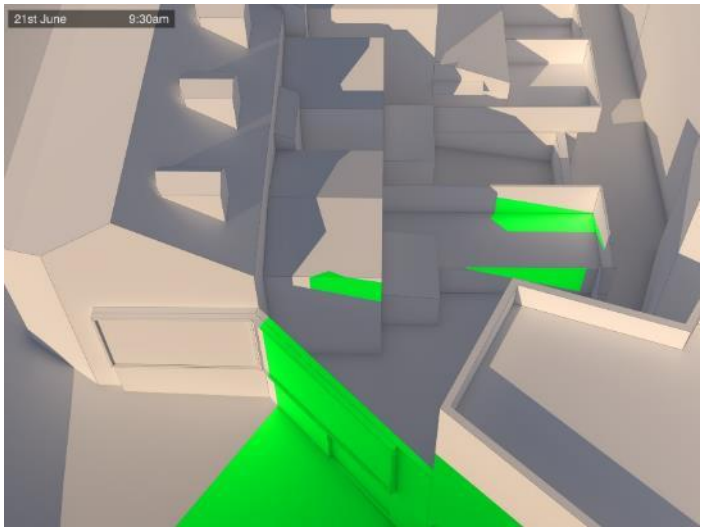

**9:15am – Existing building**



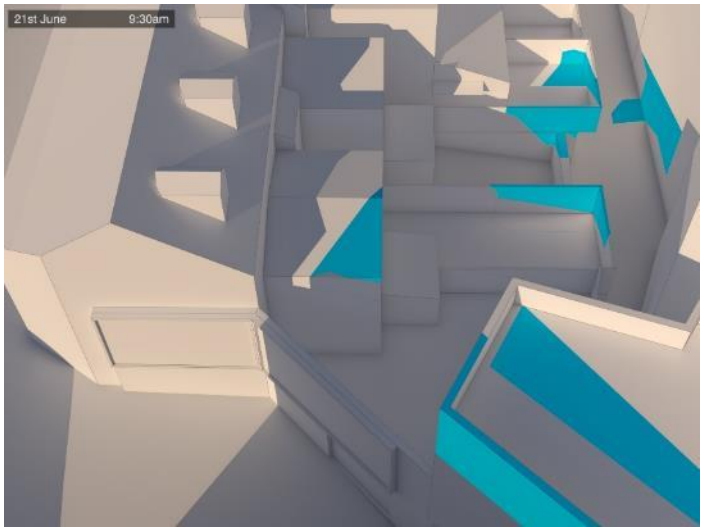

**9:15am – Existing LEP**



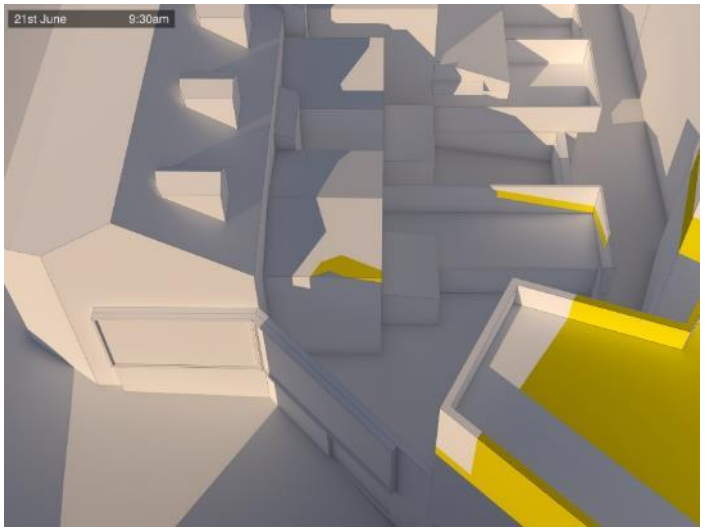

**9:15am – Planning proposal**



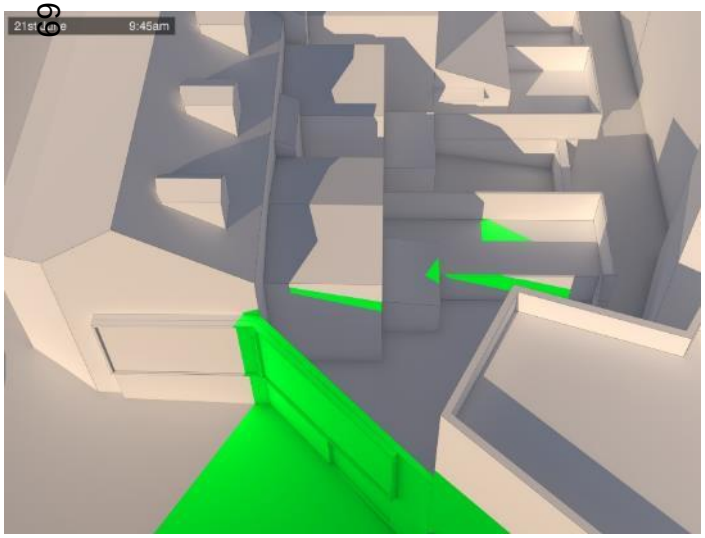

**9:30am - Existing building**



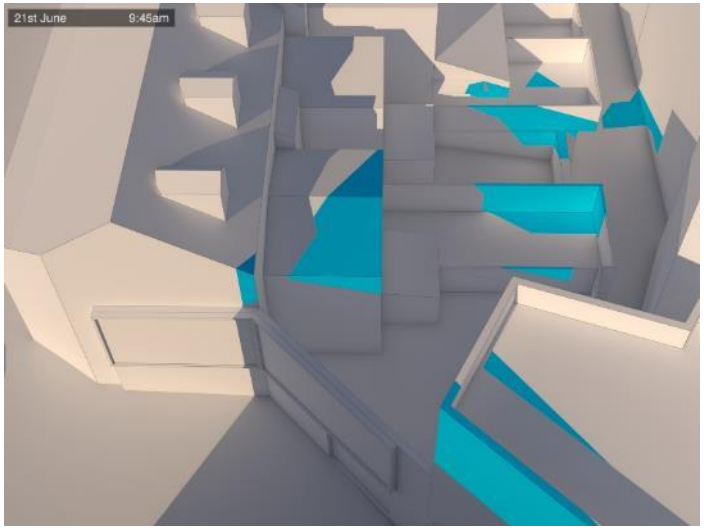

**9:30am - Existing LEP**



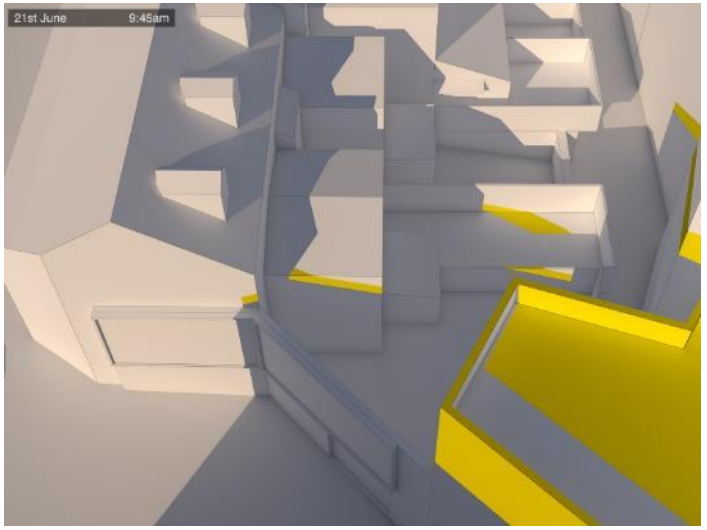

**9:30am - Planning proposal**



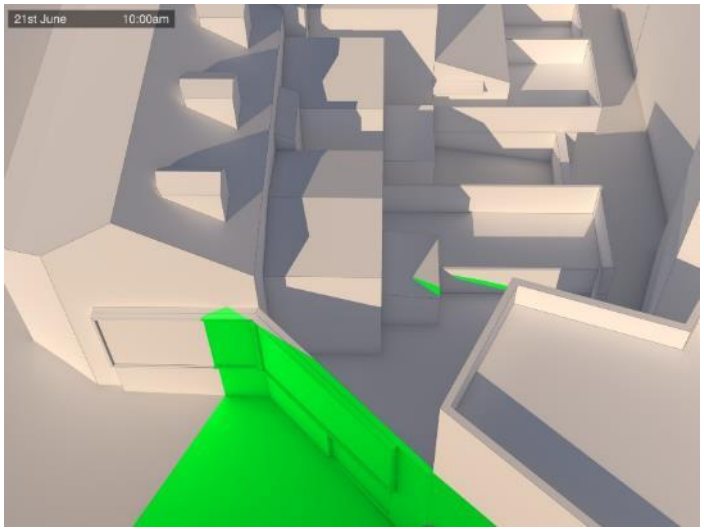

**9:45am – Existing building**



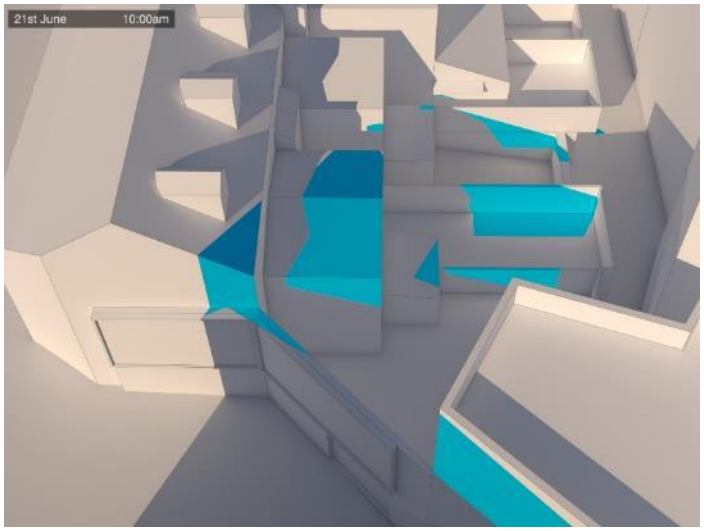

**9:45am – Existing LEP**



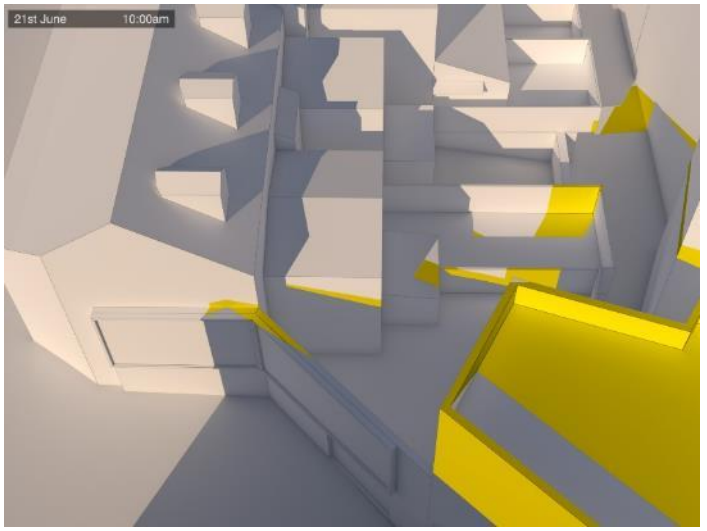

**9:45am – Planning proposal**



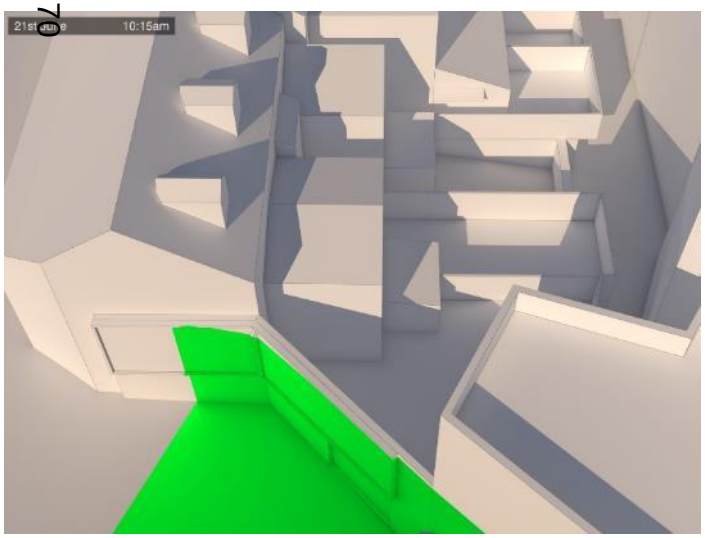

**10am - Existing building**




**10am - Existing LEP**




**10am - Planning proposal**

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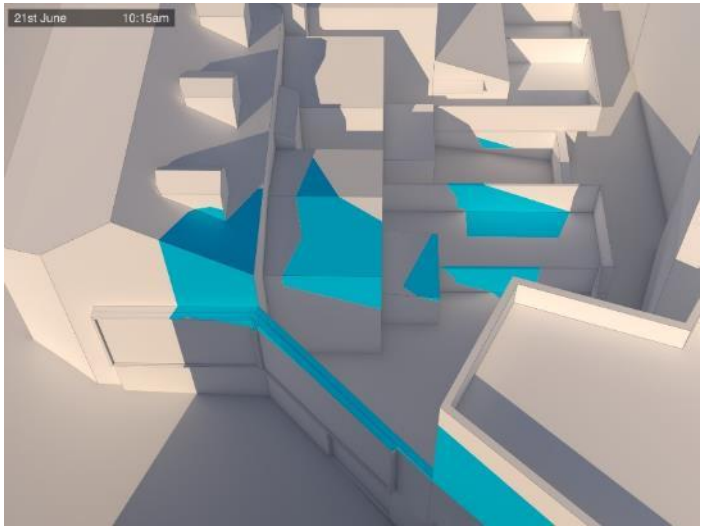


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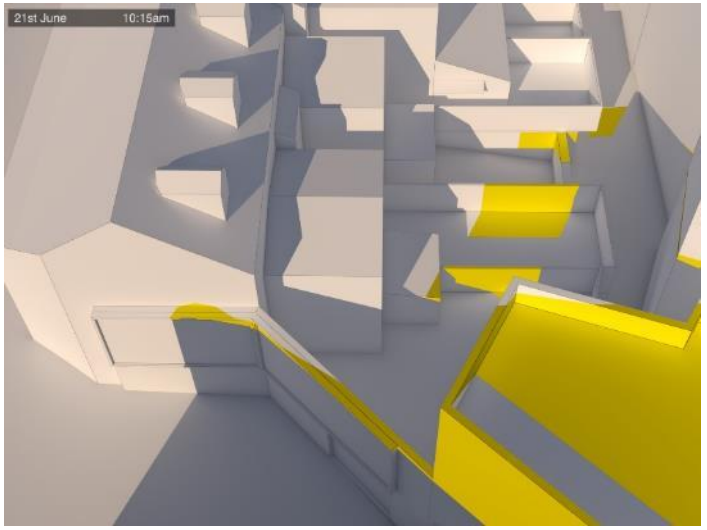


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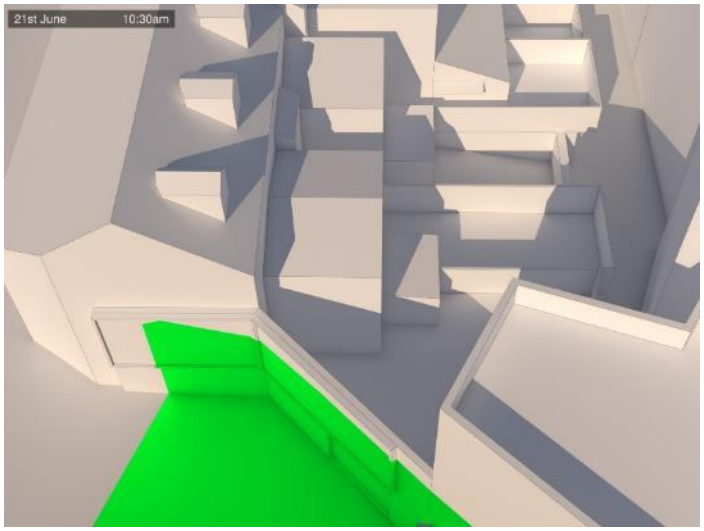


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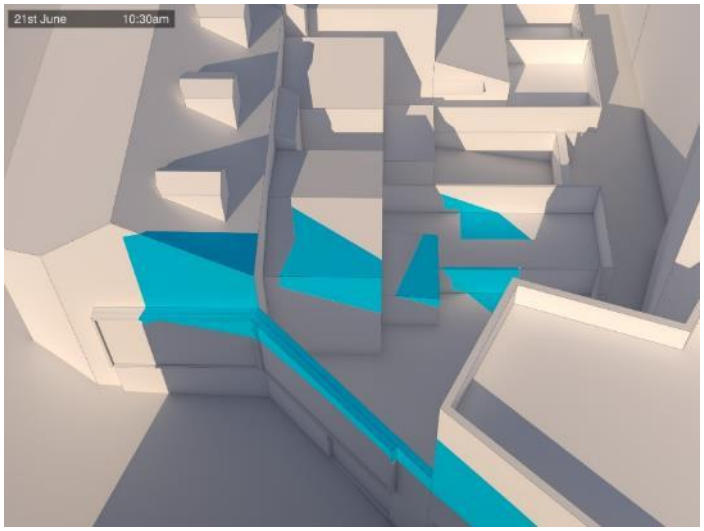


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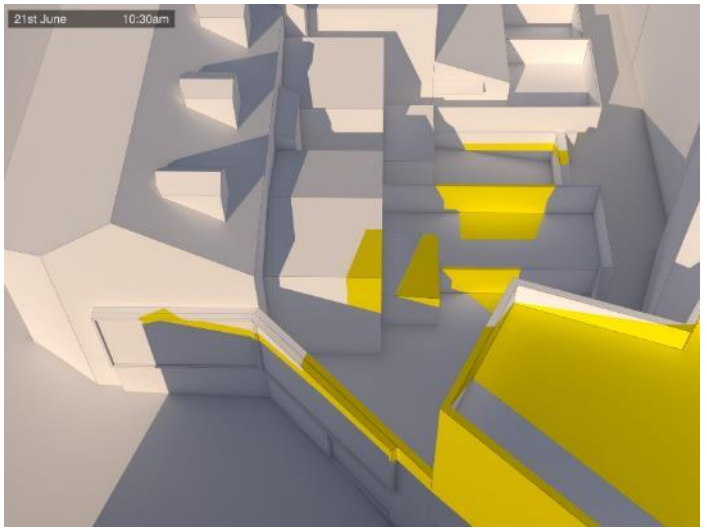


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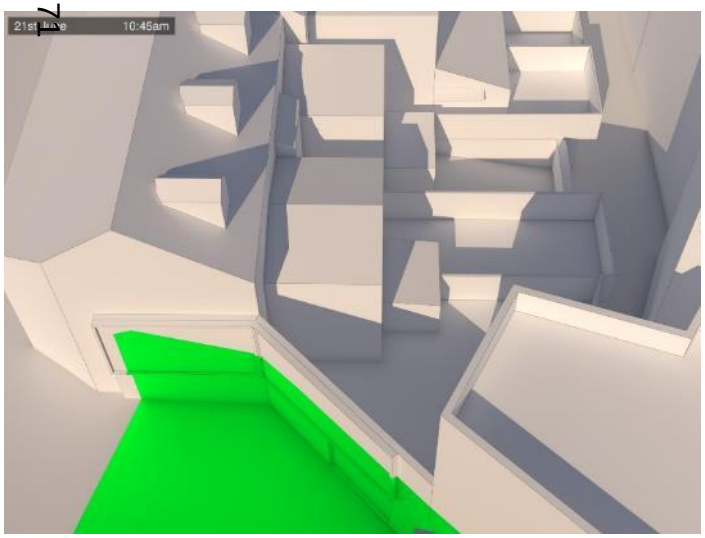


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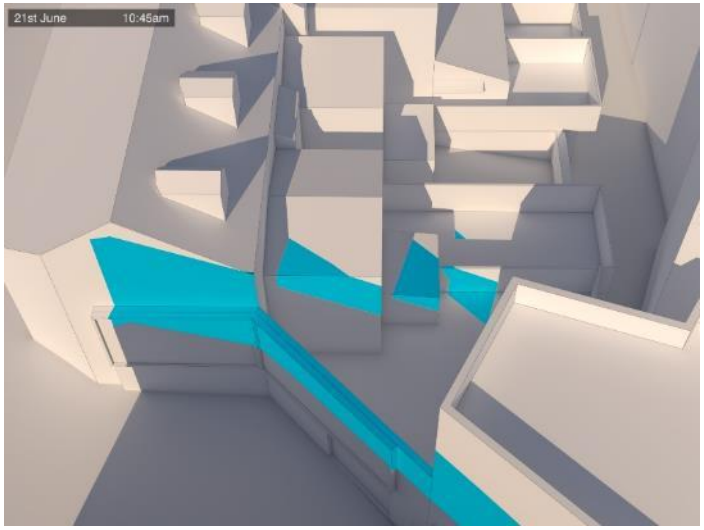


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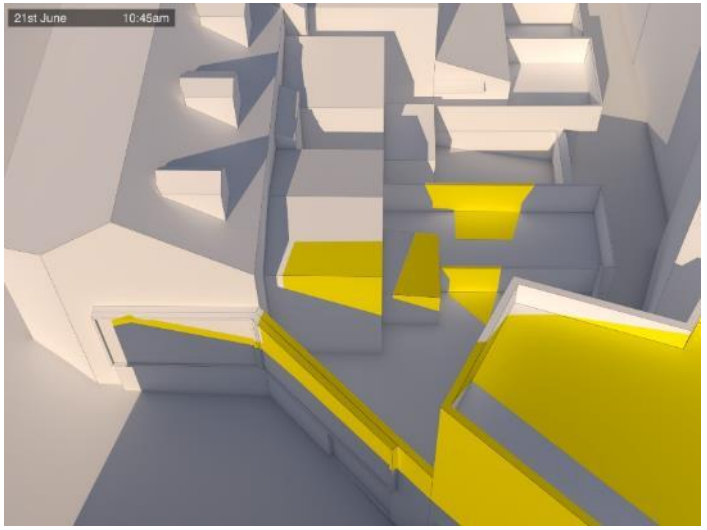


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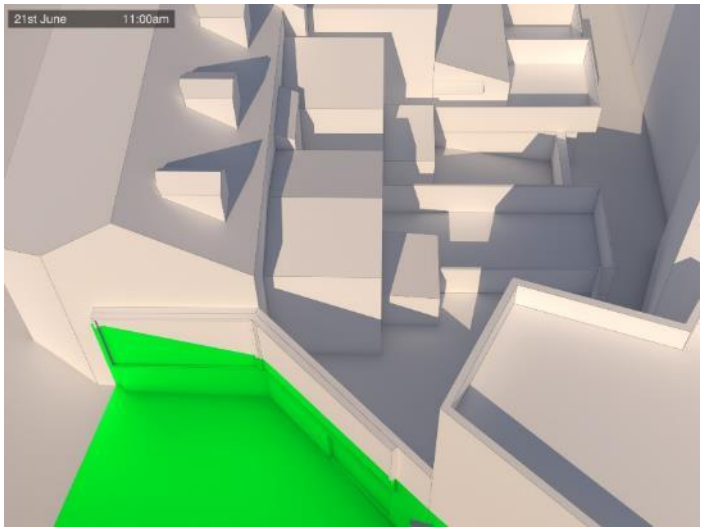


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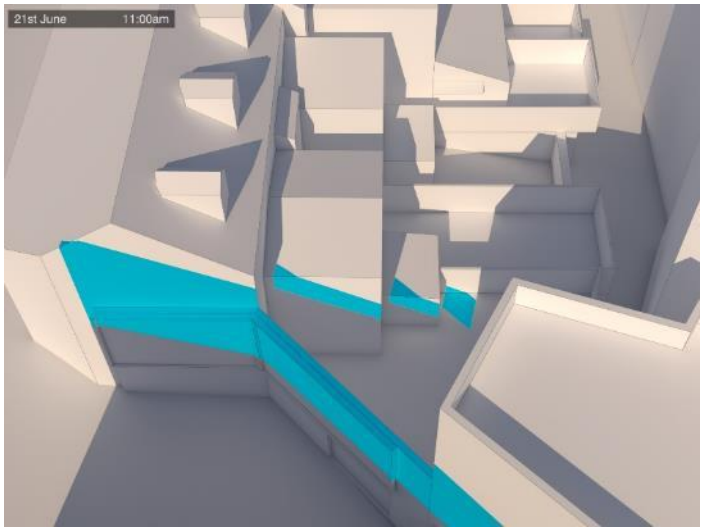


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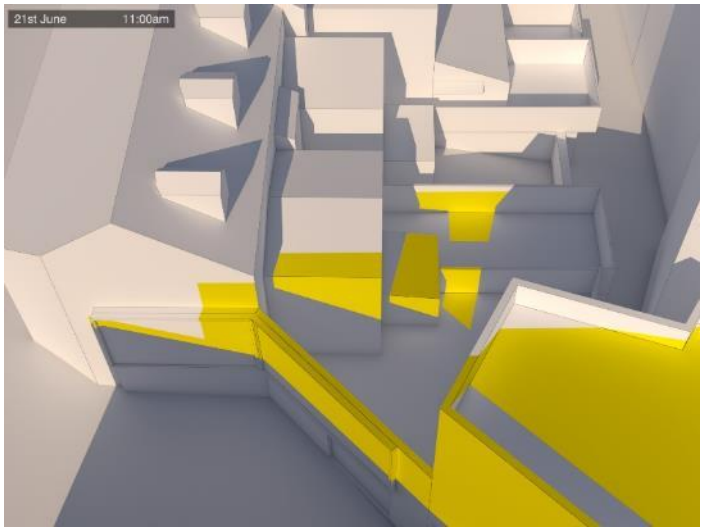


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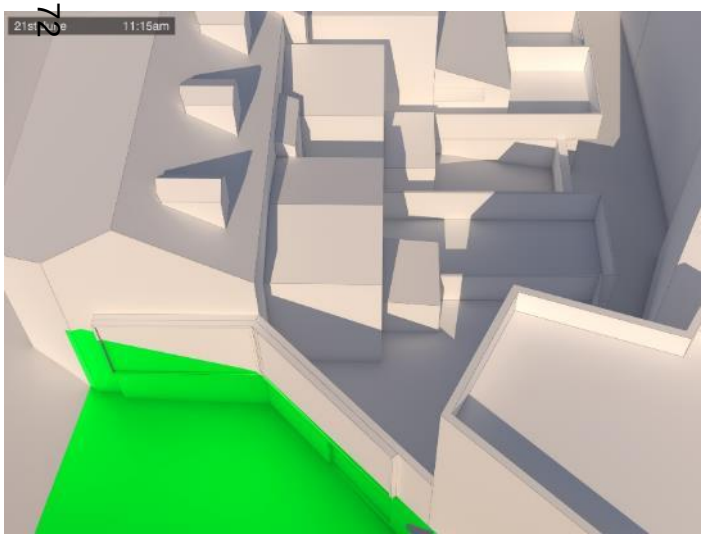


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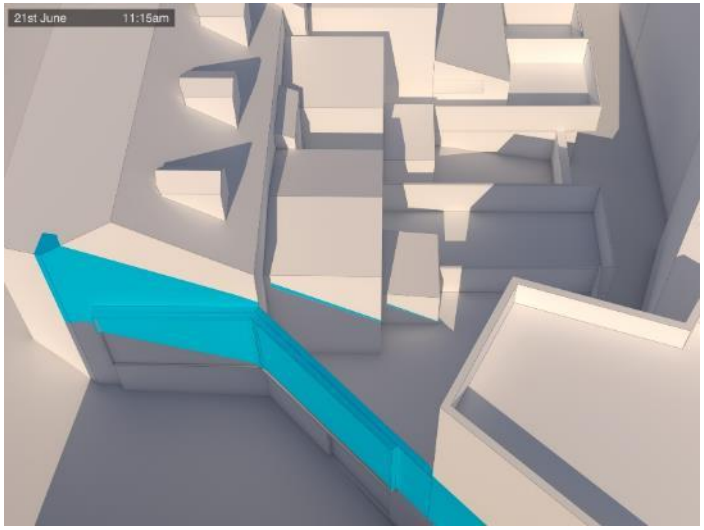


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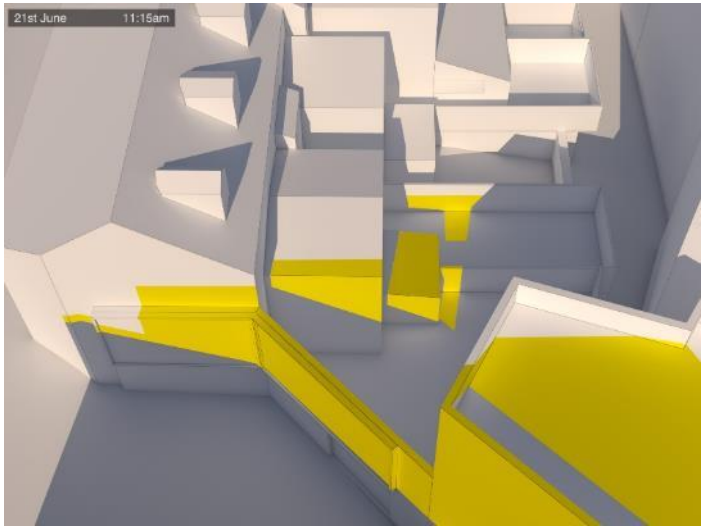


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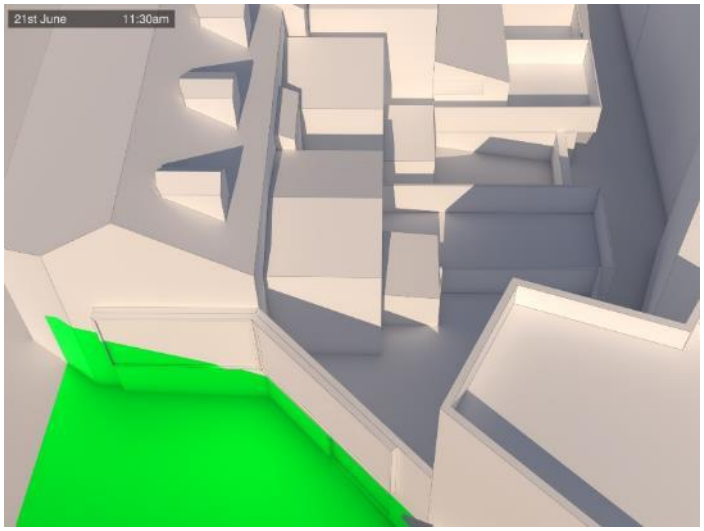


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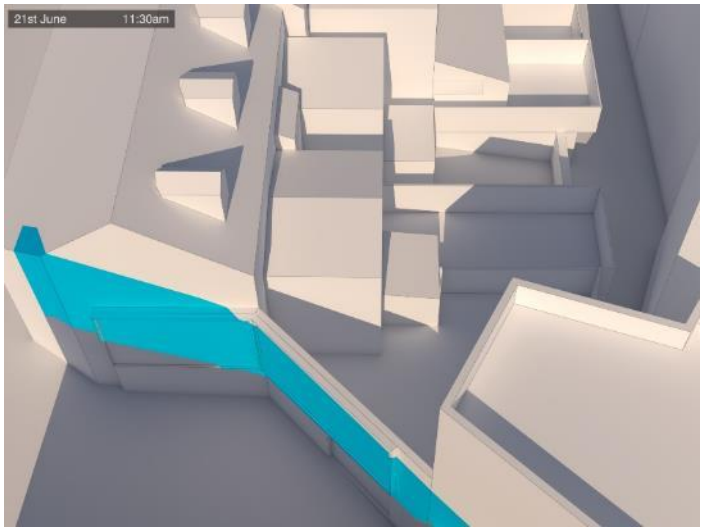


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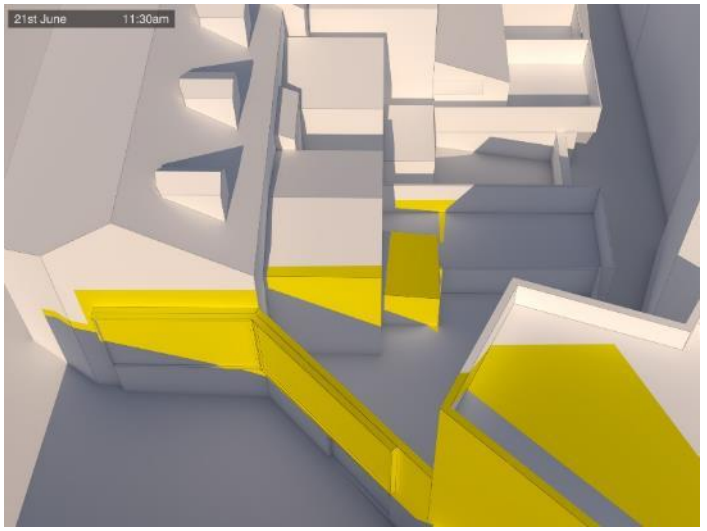


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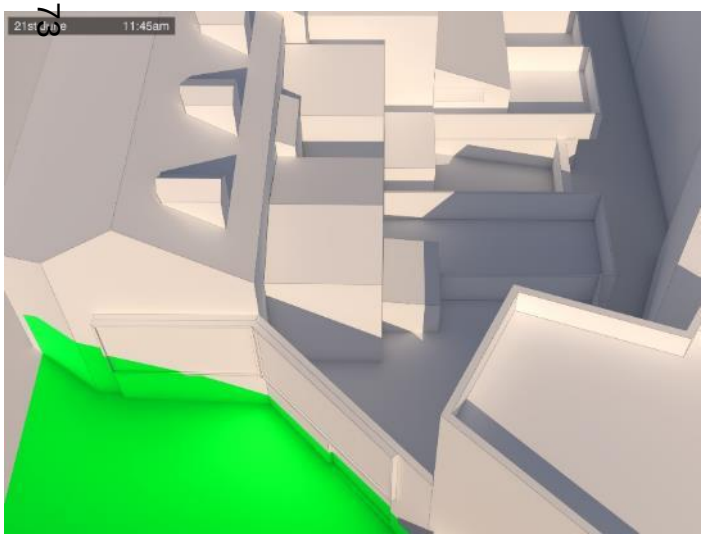


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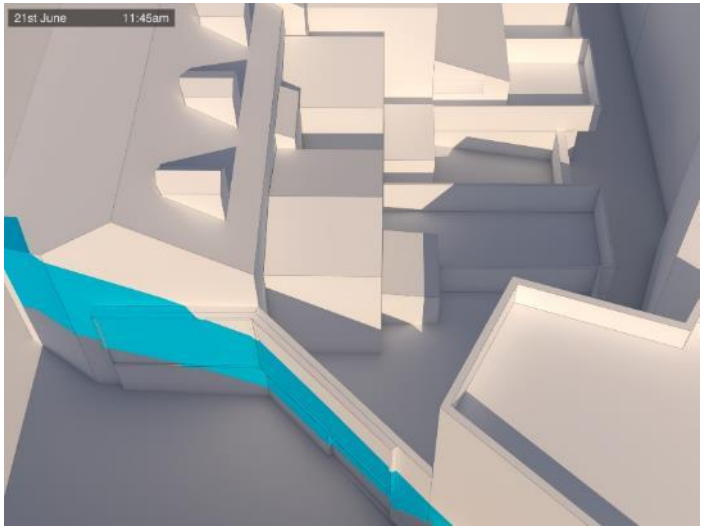


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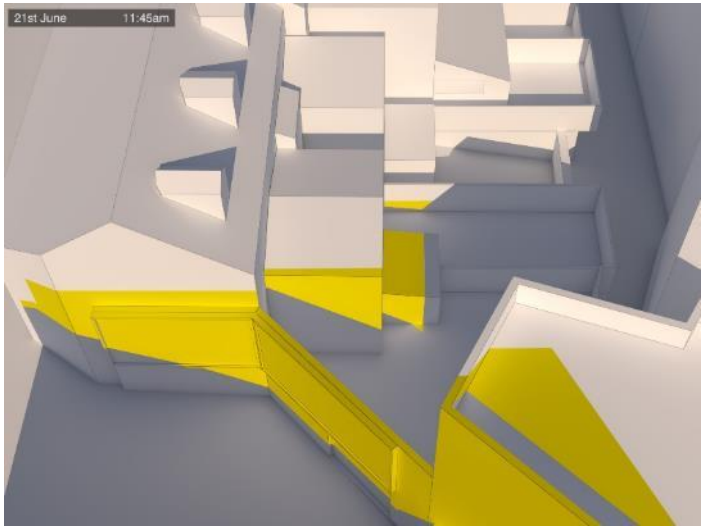


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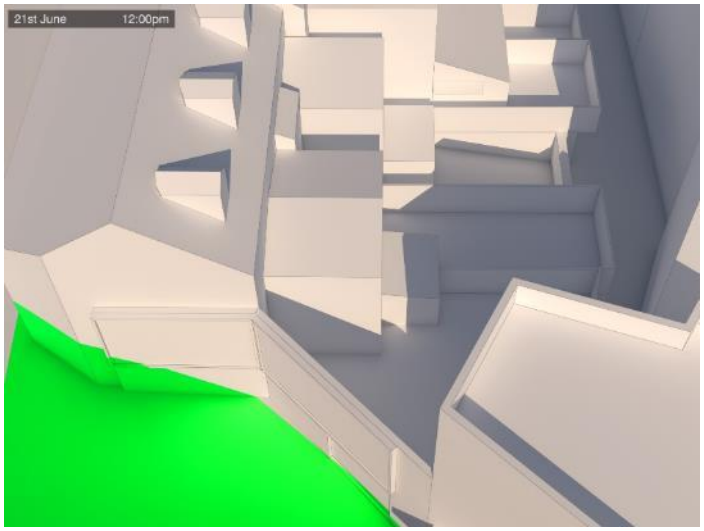


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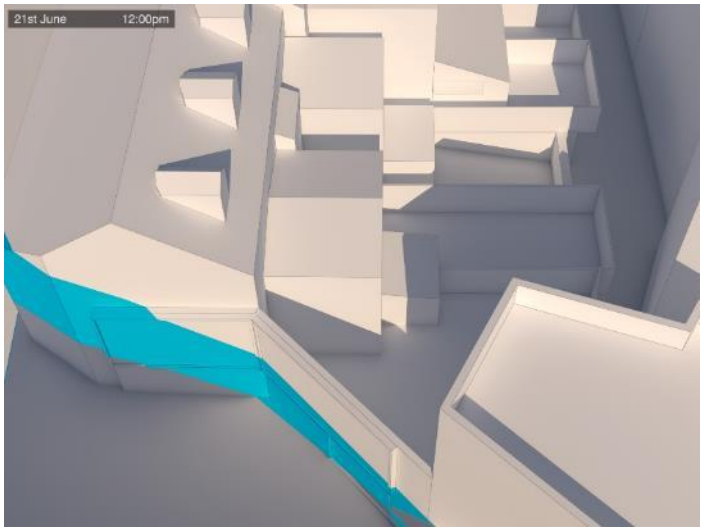


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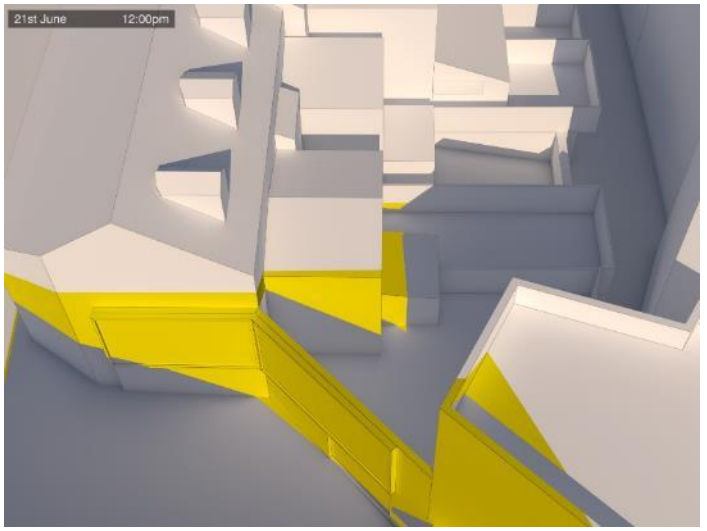


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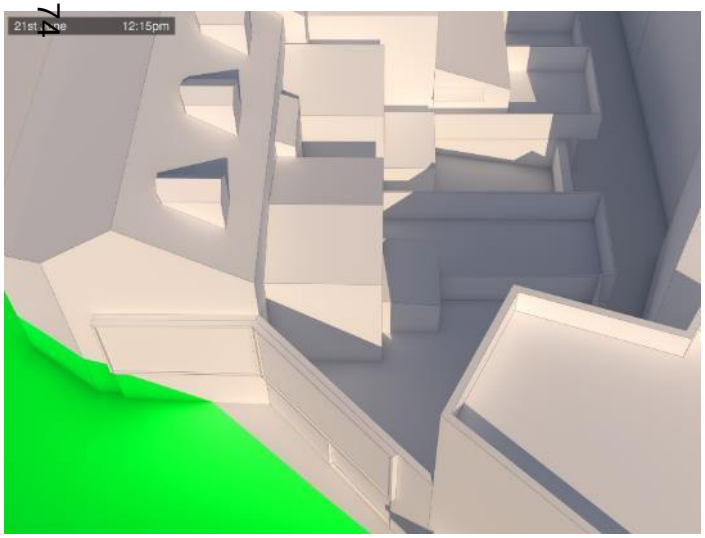


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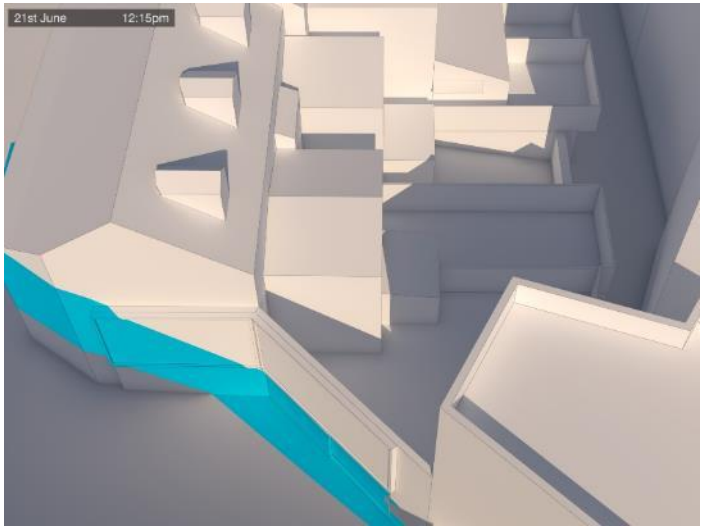


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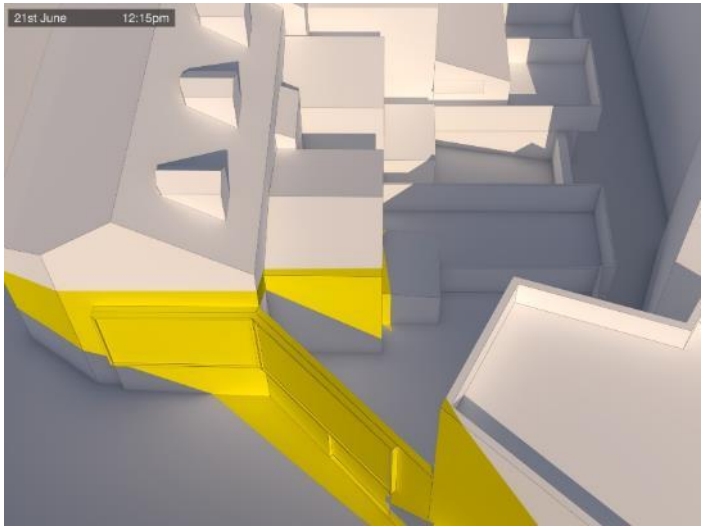


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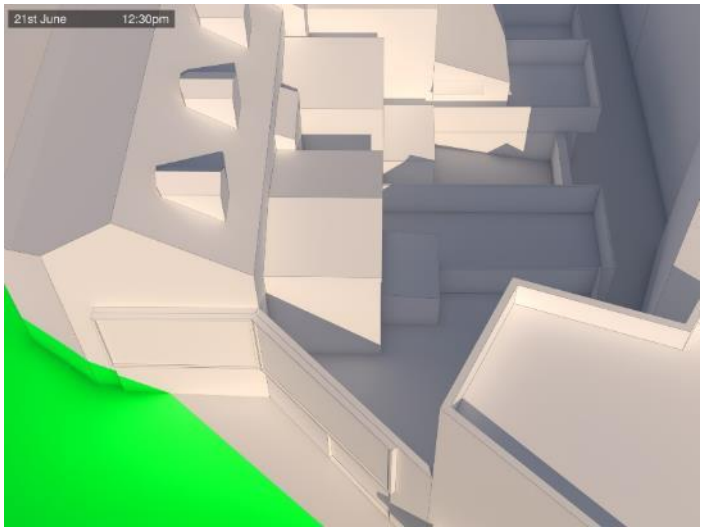


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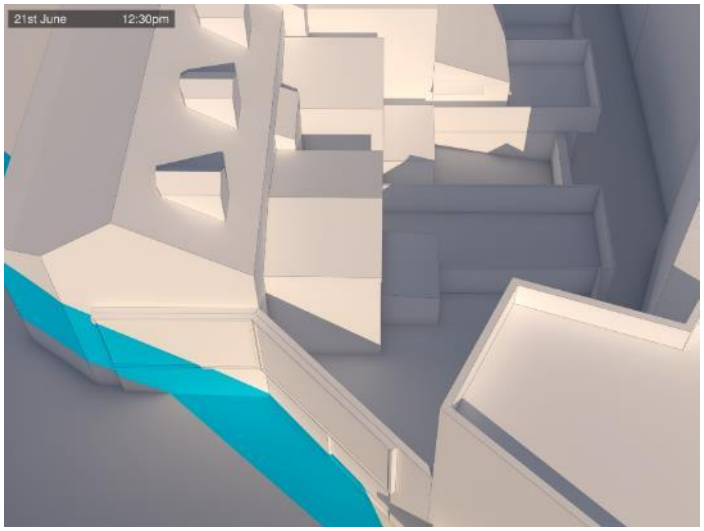


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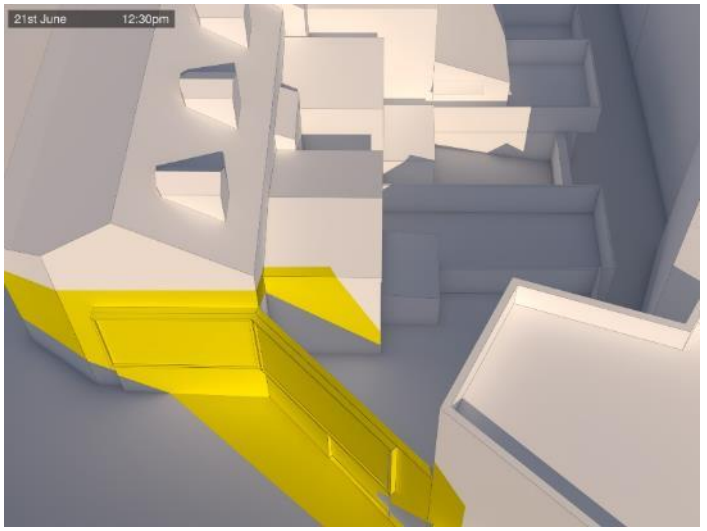


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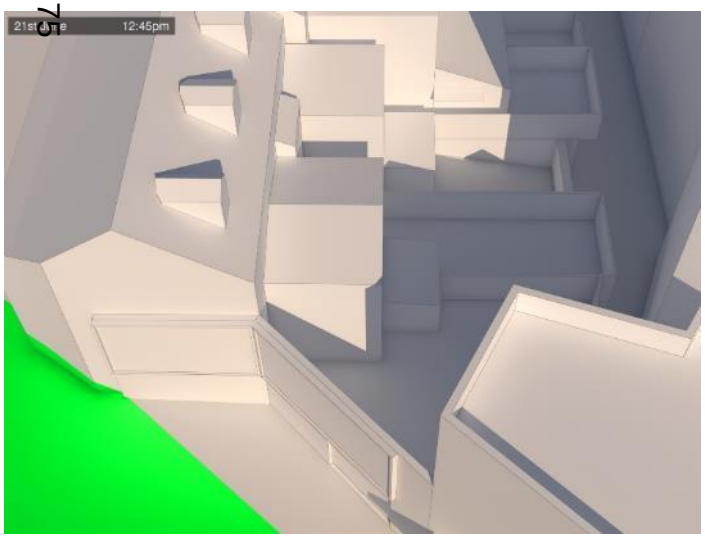


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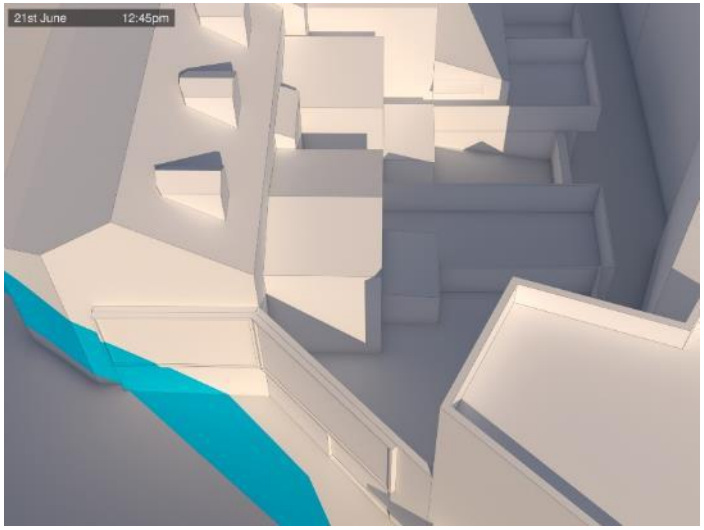


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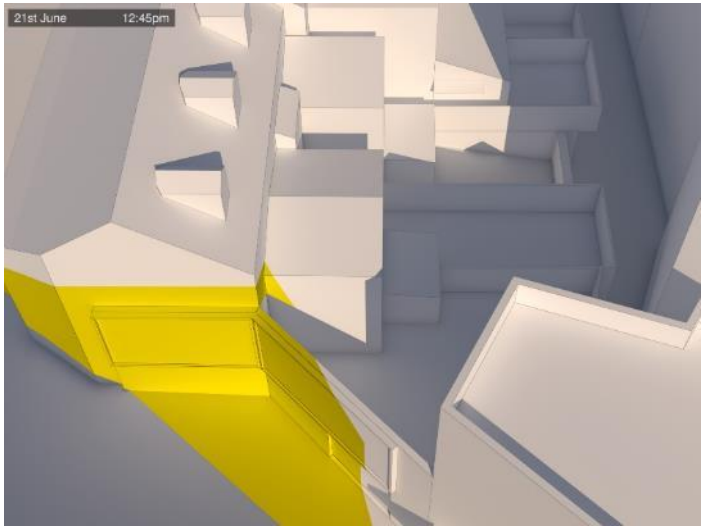


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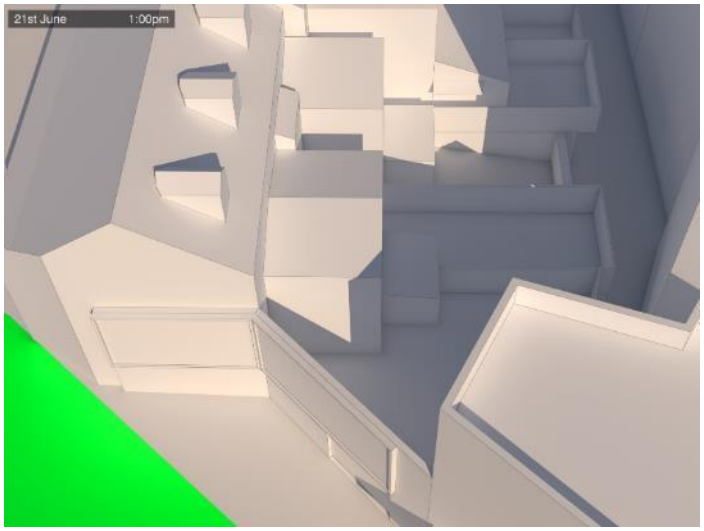


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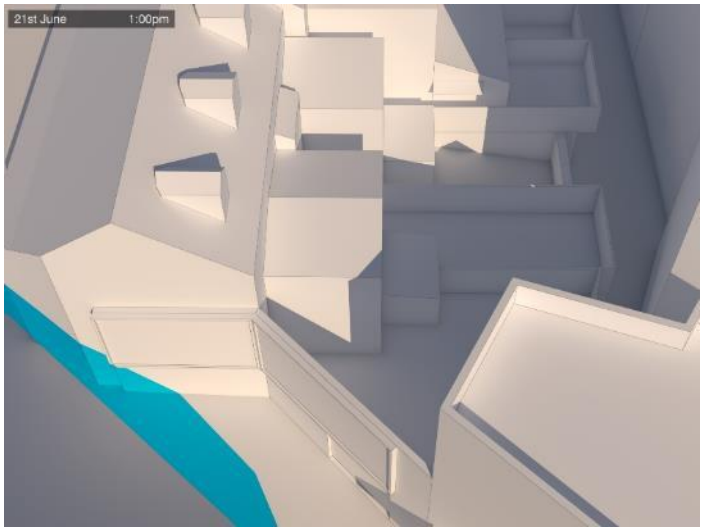


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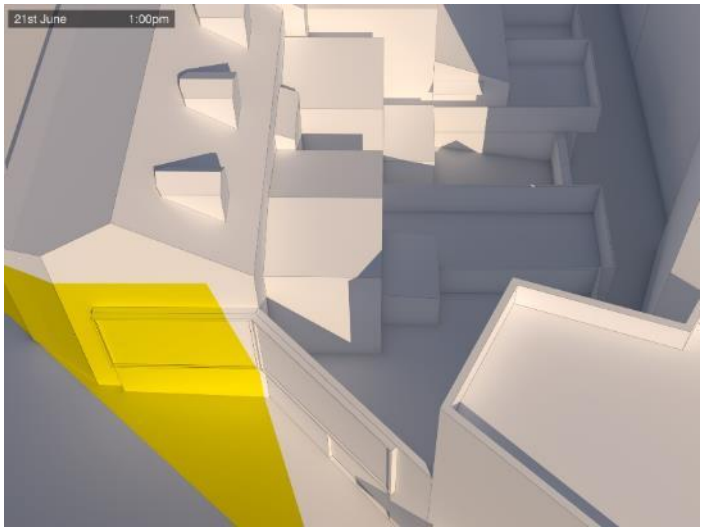


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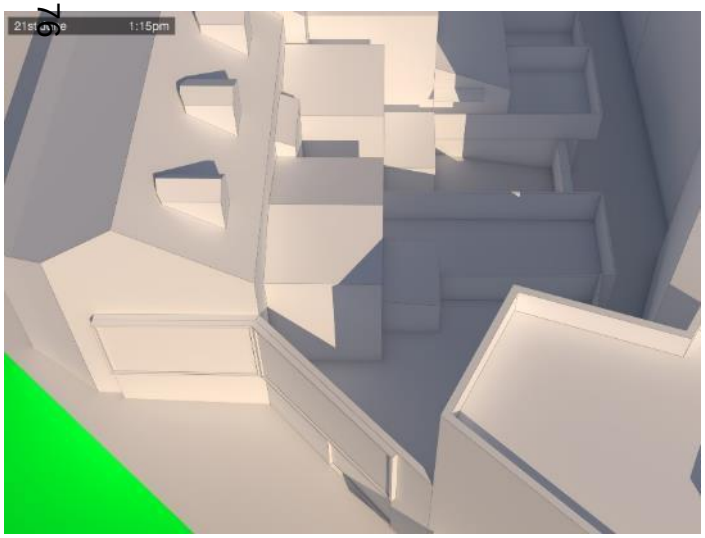


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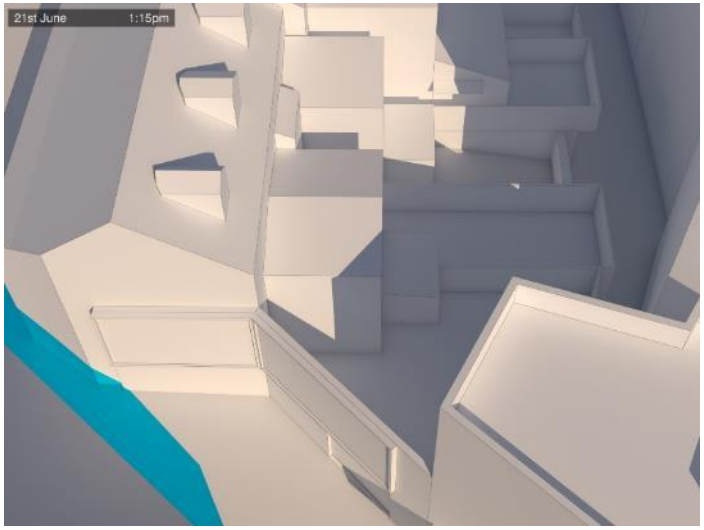


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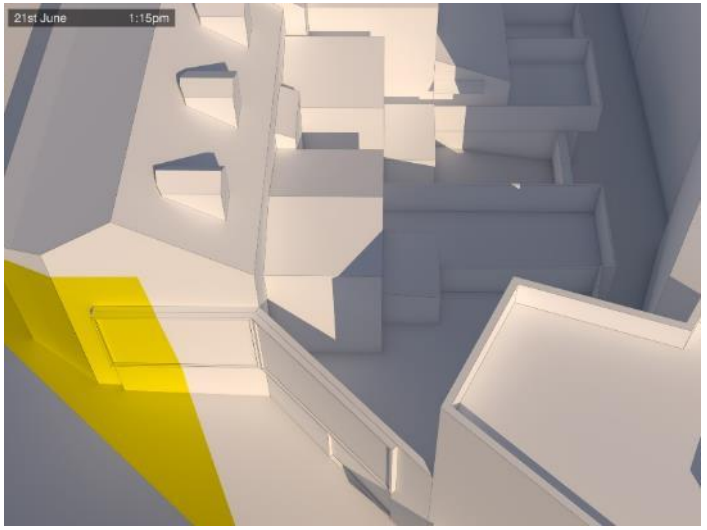


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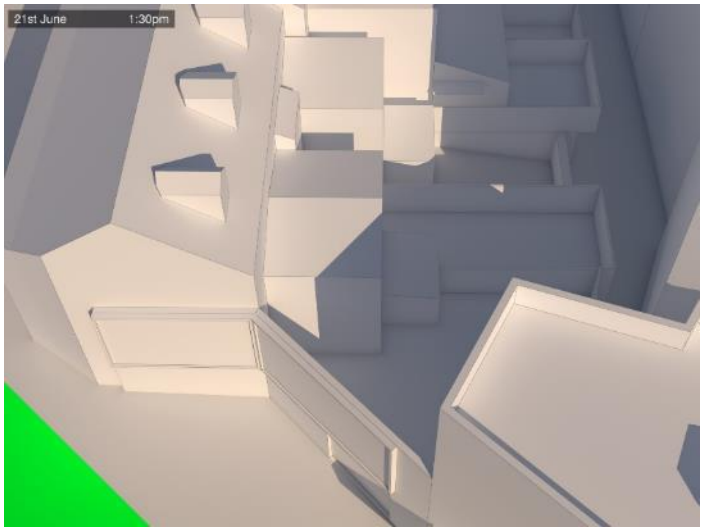
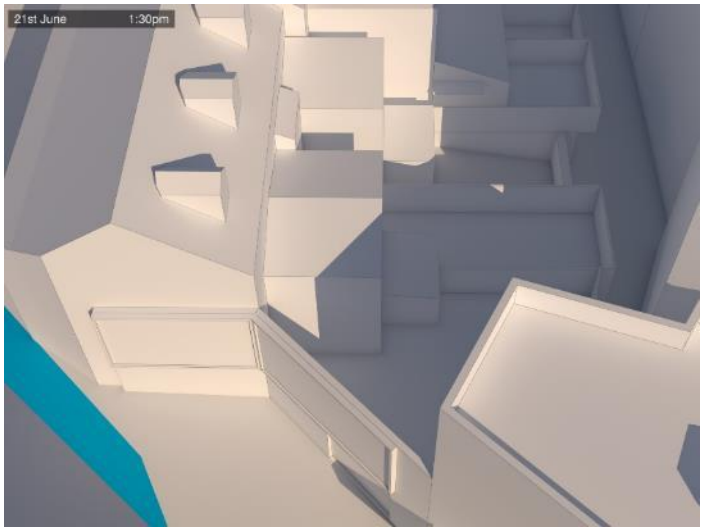



**1:30pm - Existing building**

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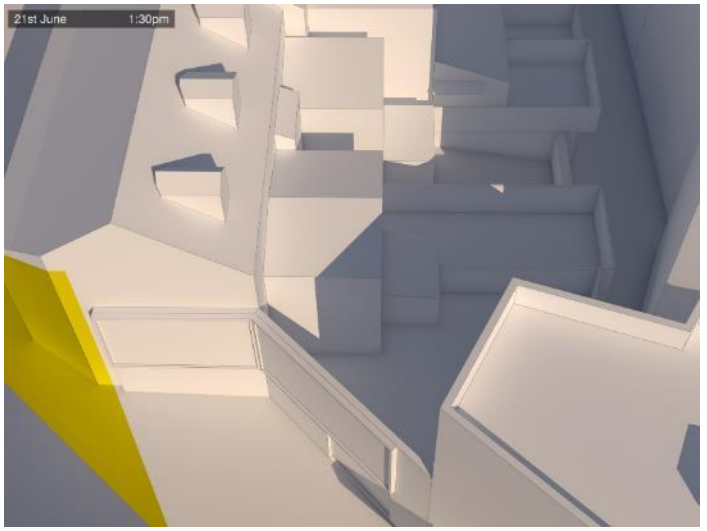


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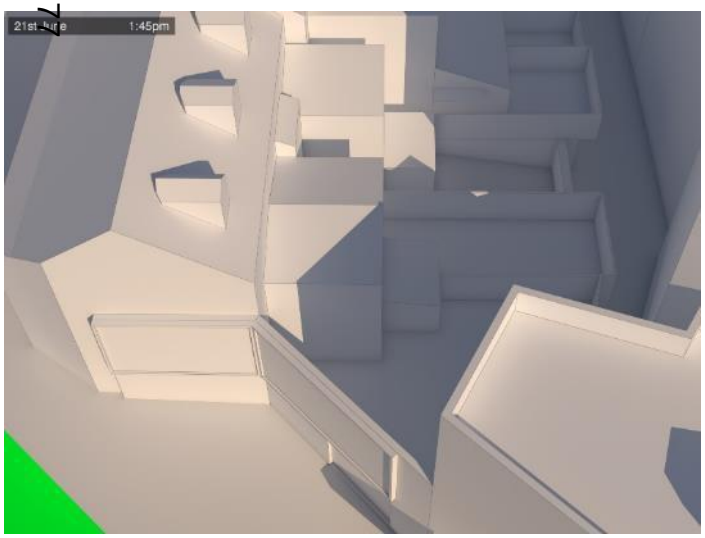
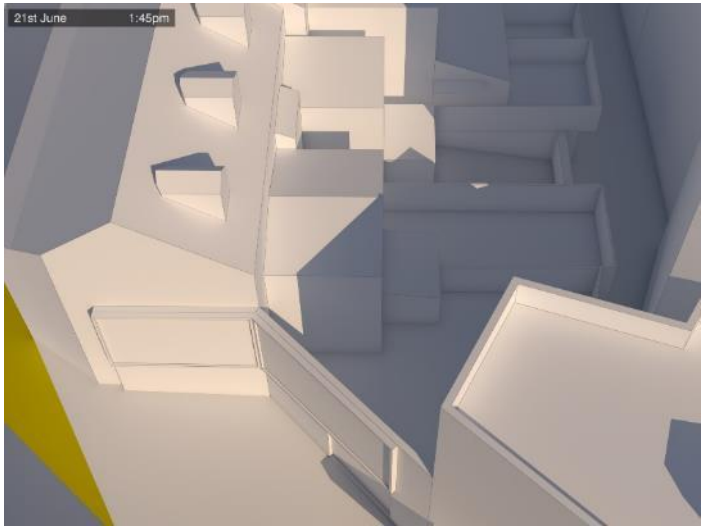



**1:45pm – Existing building**




**1:45pm – Existing LEP**

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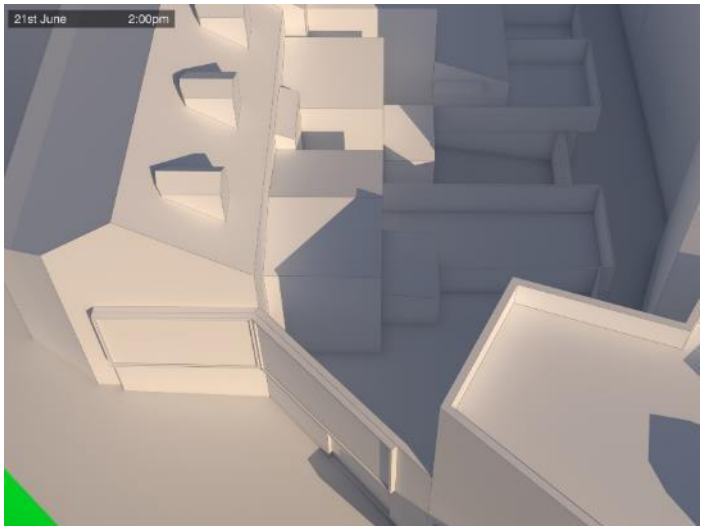


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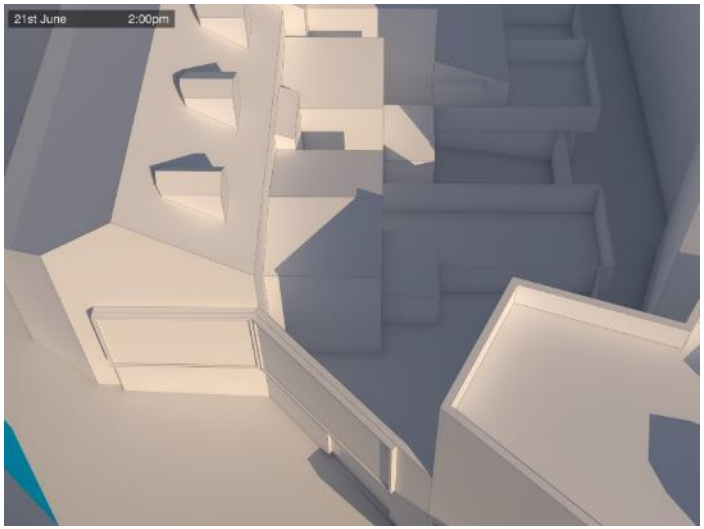


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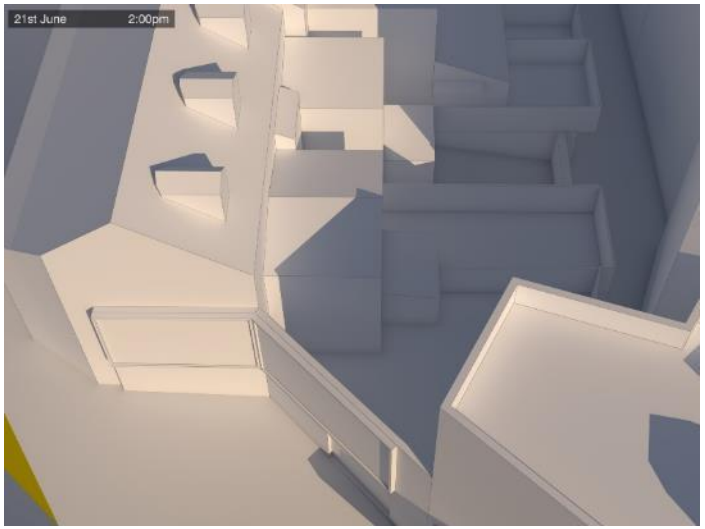


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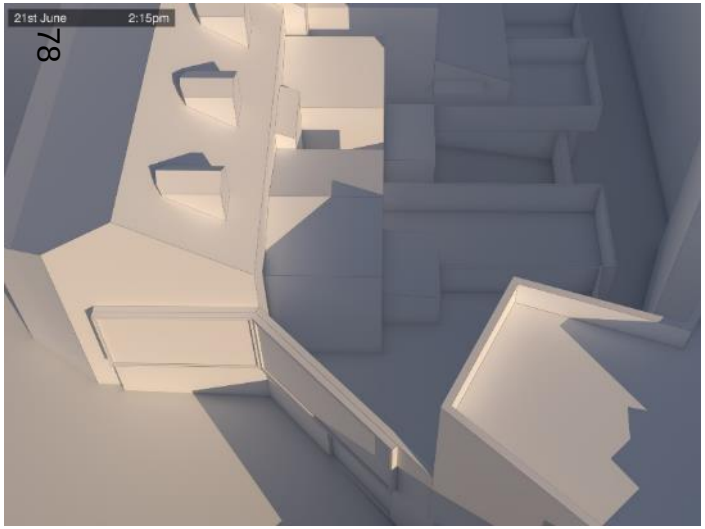
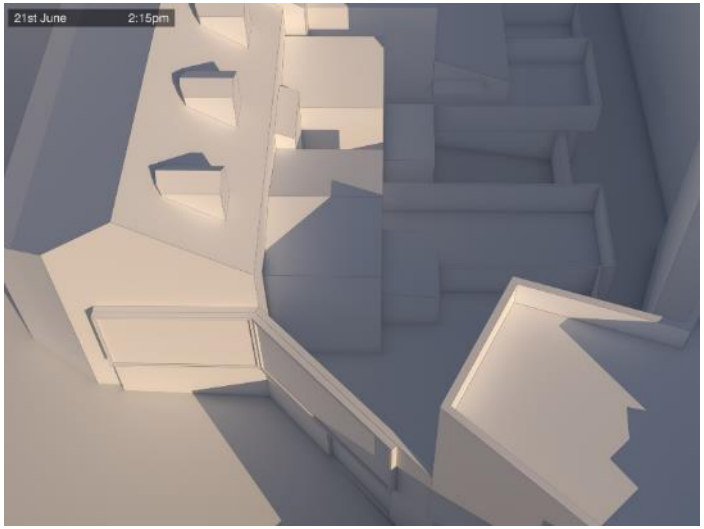



**2:15pm – Existing building**

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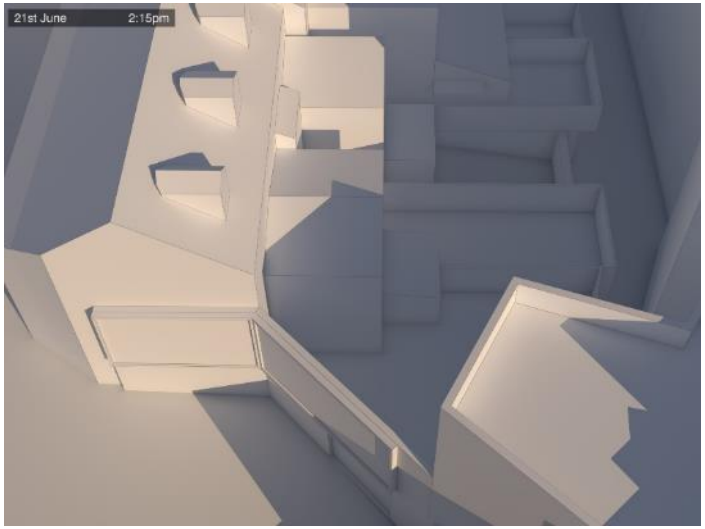


**2:15pm – Planning proposal**



# Attachment C

**Resolutions of Council and the Central Sydney Planning Committee**

# Resolution of Council

**15 May 2023**

**Item 8.4**

**Public Exhibition - Planning Proposal - 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge, 90 and 100-104 Brougham Street, Potts Point, and 85-93 Commonwealth Street, Surry Hills - Sydney Local Environmental Plan 2012 Amendment**

It is resolved that:

(A) Council approve the Planning Proposal - 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge as shown at Attachment A to the subject report:

(i) for submission to the Department of Planning and Environment with a request for Gateway Determination; and

(ii) for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;

(B) Council approve the Planning Proposal - 90 and 100-104 Brougham Street, Potts Point as shown at Attachment B to the subject report:

(i) for submission to the Department of Planning and Environment with a request for Gateway Determination; and

(ii) for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;

(C) Council approve the Planning Proposal - 85-93 Commonwealth Street, Surry Hills, as shown at Attachment C to the subject report:

(i) for submission to the Department of Planning and Environment with a request for Gateway Determination; and

(ii) for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;

(D) Council seek authority from the Department of Planning and Environment to exercise the delegation of all the functions under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect Planning Proposals: 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge; 90 and 100-104 Brougham Street, Potts Point; and 85-93 Commonwealth Street, Surry Hills; and

(E) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposals: 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge; 90 and 100-104 Brougham Street, Potts Point; and 85-93 Commonwealth Street, Surry Hills, to correct any drafting errors or to ensure consistency with the Gateway Determination.

Clause (A) was carried on the following show of hands:

Ayes (7) The Chair (the Lord Mayor), Councillors Davis, Gannon, Jarrett, Kok, Scott and Worling

Noes (2) Councillors Ellsmore and Weldon.

Clauses (B) to (E) were carried unanimously.

X082392

# Resolution of Central Sydney Planning Committee

## 11 May 2023

## Item 6

**Public Exhibition - Planning Proposal - 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge, 90 and 100-104 Brougham Street, Potts Point, and 85-93 Commonwealth Street, Surry Hills - Sydney Local Environmental Plan 2012 Amendment**

Moved by the Chair (the Lord Mayor), seconded by Councillor Kok –

It is resolved that:

(A) the Central Sydney Planning Committee approve the Planning Proposal - 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge as shown at Attachment A to the subject report:

(i) for submission to the Department of Planning and Environment with a request for Gateway Determination; and

(ii) for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;

(B) the Central Sydney Planning Committee approve the Planning Proposal - 90 and 100-104 Brougham Street, Potts Point as shown at Attachment B to the subject report:

(i) for submission to the Department of Planning and Environment with a request for Gateway Determination; and

(ii) for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;

(C) the Central Sydney Planning Committee approve the Planning Proposal - 85-93 Commonwealth Street, Surry Hills, as shown at Attachment C to the subject report:

(i) for submission to the Department of Planning and Environment with a request for Gateway Determination; and

(ii) for public authority consultation and public exhibition in accordance with any conditions imposed under the Gateway Determination;

(D) the Central Sydney Planning Committee note the recommendation to Council's Transport, Heritage, Environment and Planning Committee on 8 May 2023 that Council seek authority from the Department of Planning and Environment to exercise the delegation of all the functions under section 3.36 of the Environmental Planning and Assessment Act 1979 to make the local environmental plan and to put into effect Planning Proposals: 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge; 90 and 100-104 Brougham Street, Potts Point; and 85-93 Commonwealth Street, Surry Hills; and

(E) authority be delegated to the Chief Executive Officer to make any minor variations to Planning Proposals: 2, 2A-8 Arundel Street and 6-12 Parramatta Road, Forest Lodge; 90 and 100-104 Brougham Street, Potts Point; and 85-93 Commonwealth Street, Surry Hills, to correct any drafting errors or to ensure consistency with the Gateway Determination.

Carried unanimously.

X082392

# Attachment D

## Gateway Determination

# Gateway Determination

***Planning proposal (Department Ref: PP-2022-3843)****:* to amend the Sydney LEP 2012 to introduce a new site specific clause in Part 6 and associated mapping amendments to enable additional employment floorspace at 85-93 Commonwealth Street, Surry Hills.

I, the Director, Eastern District City of Sydney, at the Department of Planning and Environment, as delegate of the Minister for Planning and Public Spaces, have determined under section 3.34(2) of the *Environmental Planning and Assessment Act 1979* (the Act) that an amendment to the Sydney Local Environmental Plan 2012 to enable additional employment floorspace should proceed subject to the following conditions:

1. The planning proposal is to be updated prior to public exhibition to:

    (a) Provide a statement addressing consistency with Section 9.1 Ministerial Direction 4.5 Acid Sulfate Soils

    (b) Include shadow analysis demonstrating any additional overshadowing of the private open space of the residential terraces on Commonwealth Street and Harmony Park

    (c) Provide an explanation of the need for exclusion of clause 4.6 variations

2. Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:

    (a) the planning proposal is categorised as standard as described in the *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 20 working days; and

    (b) the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in *Local Environmental Plan Making Guidelines* (Department of Planning and Environment, 2021).

3. A public hearing is not required to be held into the matter by any person or body under section 3.34(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

4. Given the nature of the planning proposal, Council is authorised to be the local plan-making authority to make this plan.

5. The LEP should be completed on or before 21 January 2024.

Dated 21 day of June 2023.



**Katie Joyner**
**Director, City of Sydney and Eastern District**

**Planning and Land Use Strategy**
**Department of Planning and Environment**

**Delegate of the Minister for Planning and Public Spaces**