

4 September 2024

At 5.00 pm

Local Planning Panel



Agenda

- 1. Disclosures of Interest**
- 2. Confirmation of Minutes**
- 3. Development Application: 375-387 Cleveland Street, Redfern - D/2023/682**
- 4. Development Application: 42 Darlinghurst Road, Potts Point - D/2023/987**
- 5. Development Application: 231 Chalmers Street, Redfern - D/2024/477**
- 6. Proposed Schedule of Local Planning Panel Meetings for 2025**



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1. Register to speak by calling Secretariat on 9265 9702 or emailing secretariat@cityofsydney.nsw.gov.au before 10.00am on the day of the meeting.
2. Check the recommendation in the LPP report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.
3. Note that there is a three minute time limit for each speaker and prepare your presentation to cover your major points within that time.
4. Avoid repeating what previous speakers have said and focus on issues and information that the LPP may not already know.
5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.

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

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Item 1.

Disclosures of Interest

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

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

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

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

Item 2.

Confirmation of Minutes

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

Meeting of 14 August 2024

Item 3.**Development Application: 375-387 Cleveland Street, Redfern - D/2023/682**

File No.: D/2023/682

Summary

Date of Submission:	The application was lodged on 2 August 2023, amended 22 May, 6 June, 2 and 7 August 2024
Applicant:	Aaron Sutherland
Architect:	Conrad Gargett
Owner/ Developer:	Stasia Pty Ltd
Planning Consultant:	Sutherland Planning
Cost of Works:	\$13,528,884
Zoning:	MU1 Mixed Use. The proposed development comprises a commercial building including retail, office premises and a neighbourhood supermarket which are permissible with consent in the zone.
Proposal Summary:	<p>Demolish existing buildings and structures on the site, excavate to accommodate a single level basement, and construct a three-storey commercial building with a maximum height of 14.3m (RL 48.4) comprising retail uses on the ground floor, a neighbourhood supermarket and office premises above.</p> <p>The application is referred to the Local Planning Panel for determination as the proposal will result in a development that contravenes the maximum Height of Buildings development standard by more than 10 per cent. The proposal presents a maximum 2.3m (19.1 per cent) departure to the maximum permissible height of 12m stipulated under Clause 4.3 of Sydney LEP 2012.</p> <p>A written request to vary the Height of Buildings development standard has been submitted with the application in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 for the proposed variation.</p>

The statement demonstrates that compliance with the standard is unreasonable and unnecessary in the specific circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard. The reasons contained in the Clause 4.6 variation request are acceptable and the variation is supported.

The proposal was amended on 11 March 2024 to address concerns raised by Council staff. These concerns related to overshadowing impacts of the James Street Reserve Community Garden, building height, bulk, and architectural expression and materiality. These concerns have been resolved in the revised scheme.

The original proposal was notified for a 21-day period between 16 August and 7 September 2023 and re-notified for a further period of 21-days between 12 September and 4 October 2023 as the on-site notice was incorrectly erected on site. A total of ten (10) submissions in objection were received during the first notification period and six (6) submissions in objection were received during the second notification period. The submissions primarily raised issues relating to the overshadowing impacts to the James Street Reserve Community Garden, building height, neighbourhood supermarket use, noise and traffic impacts.

As a result of the design modifications made during the assessment of this application, the amended proposal presents an improved outcome and a satisfactory response to the site conditions and locality. Subject to conditions, the proposed development is acceptable with regard to the relevant planning controls, and results in a form and scale that is consistent with the desired future character of the area.

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

Development Controls:

- (i) SEPP (Resilience and Hazards) 2021
- (ii) SEPP (Sustainable Buildings) 2022
- (iii) SEPP (Industry and Employment) 2021
- (iv) SEPP (Transport and Infrastructure) 2021
- (v) Sydney Local Environmental Plan 2012
- (vi) Sydney Development Control Plan 2012
- (vii) City of Sydney Development Contributions Plan 2015

(viii) City of Sydney Affordable Housing Program

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Height of Buildings
- D. Shadow Analysis and Sun Eye Diagrams
- E. Submissions

Recommendation

It is resolved that:

- (A) the variation requested to Clause 4.3 '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) consent be granted to Development Application Number D/2023/682 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The development is consistent with the objectives of the MU1 Mixed Use zone of the Sydney Local Environmental Plan 2012.
- (B) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by clause 4.6(3) of the Sydney LEP 2012, that compliance with the 'Height of Buildings' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening Clause 4.3 of the Sydney 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 proposed development complies with the maximum Floor Space Ratio development standard contained in Clause 4.4 of the Sydney Local Environmental Plan 2012.
- (D) The proposed development exhibits design excellence in accordance with the requirements contained in Clause 6.21C of the Sydney Local Environmental Plan 2012.
- (E) The proposed development, as amended, has a height, scale and form suitable for the site and its context, and is appropriate in the streetscape context and setting of the Waterloo and Redfern (Cleveland Street) Special Character Area.
- (F) The development provides an appropriate response to the significance and character of the Baptist Street heritage conservation area and does not result in any detrimental impacts on the heritage significance of contributory buildings or nearby local heritage items.
- (G) The development maintains an acceptable level of direct sunlight to the James Street Reserve Community Garden does not result in any significant adverse environmental or amenity impacts on the subject or surrounding properties, the public domain, and broader locality, subject to recommended conditions.

- (H) The proposal is generally consistent with the relevant objectives and controls of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 1000082, known as 375-387 Cleveland Street, Redfern. It is irregular in shape with area of 996 square metres. It has a primary street frontage of 31.83 metres to Cleveland Street to the north and a secondary street frontage of 21.285 metres to Marriott Street to the east. The southern boundary of the site adjoins James Street which comprises a public reserve, known as the James Street Reserve, and the James Street Reserve Community Garden. A row of two storey terraces adjoins the site to the west. Levels on the site fall from Cleveland Street to Marriot Street.
2. The site is occupied by a single storey building with ancillary shade structures over a large hardstand area. The existing building is setback from both the primary and secondary street frontages and presents a blank wall to the James Street Reserve Community Garden and James Street Reserve. There is an existing two-storey rendered wall located along the western boundary of the site at the interface with the adjoining residential terrace at 373 Cleveland Street. The entire site is currently used as a car wash, known as 'Wax Car Wash'.
3. Existing vehicular access is provided from both Cleveland and Marriott Streets. While there is no vegetation contained within the site, there are several trees located within the immediate vicinity of the site including within the James Street Reserve and Community Garden and two street trees along the Cleveland Street frontage.
4. The site is subject to two cross easements for support over the party wall shared with a residential terrace along the western boundary at 373 Cleveland Street.
5. The existing building on the site is identified as a detracting building located within the Baptist Street heritage conservation area (C53). The site is also located within the Waterloo and Redfern (Cleveland Street) Special Character Area.
6. The site is identified as being subject to flooding and is located within the Alexandra Canal catchment, which drains down Cleveland Street and discharges south along Marriott Street.
7. The surrounding area is characterised by a mixture of land uses, primarily being commercial and residential. The Surry Hills Shopping Village is located immediately to the east of the site across Marriott Street at 2-38 Baptist Street and 397-399 Cleveland Street. The Surry Hills Shopping Village precinct (bound by Cleveland, Marriott and Baptist Streets) contains commercial, tourist and visitor accommodation, residential and retail land uses including a Coles full line supermarket and new public park.
8. Site visits were carried out on 26 September 2023, 11 November 2023, 16 and 22 August 2024. The site is identified on the aerial photograph in Figure 1. Photos of the site and surrounds are provided in Figures 2 to 15 below.



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Cleveland Street facing south-west (26 September 2023)



Figure 3: Existing Cleveland Street site frontage (22 August 2024)



Figure 4: Cleveland Street site frontage showing existing street trees and western interface with the row of two-storey residential terraces (26 September 2023)



Figure 5: Site viewed from Marriott Street facing north-west, showing the existing self-portrait mural by Fintan Magee (completed in 2013) at the south-eastern corner of the site (26 September 2023)

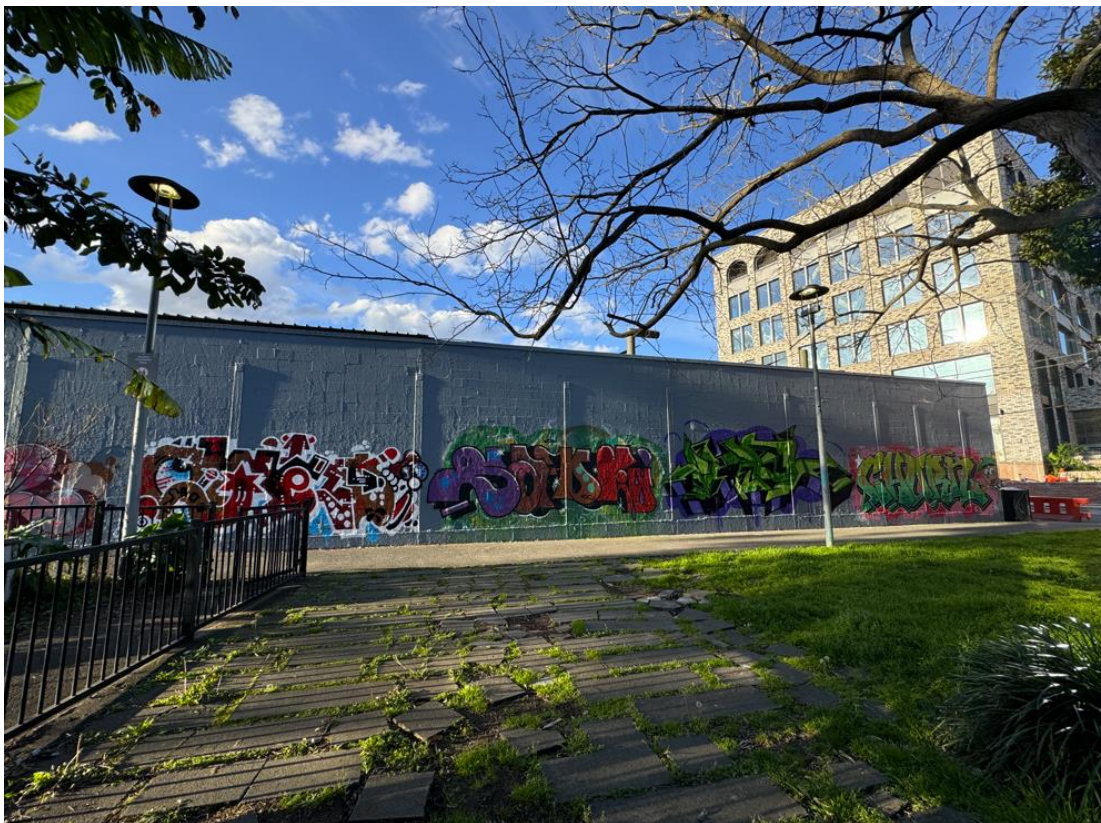


Figure 6: James Street Reserve facing north showing the existing southern boundary wall on the site (22 August 2024)



Figure 7: Site viewed from James Street facing east showing the James Street Reserve Community Garden (22 August 2024)



Figure 8: View from within the James Street Reserve Community Garden facing north towards the site (22 August 2024)



Figure 9: View from within the James Street Reserve Community Garden facing south-west to Young Lane (22 August 2024)

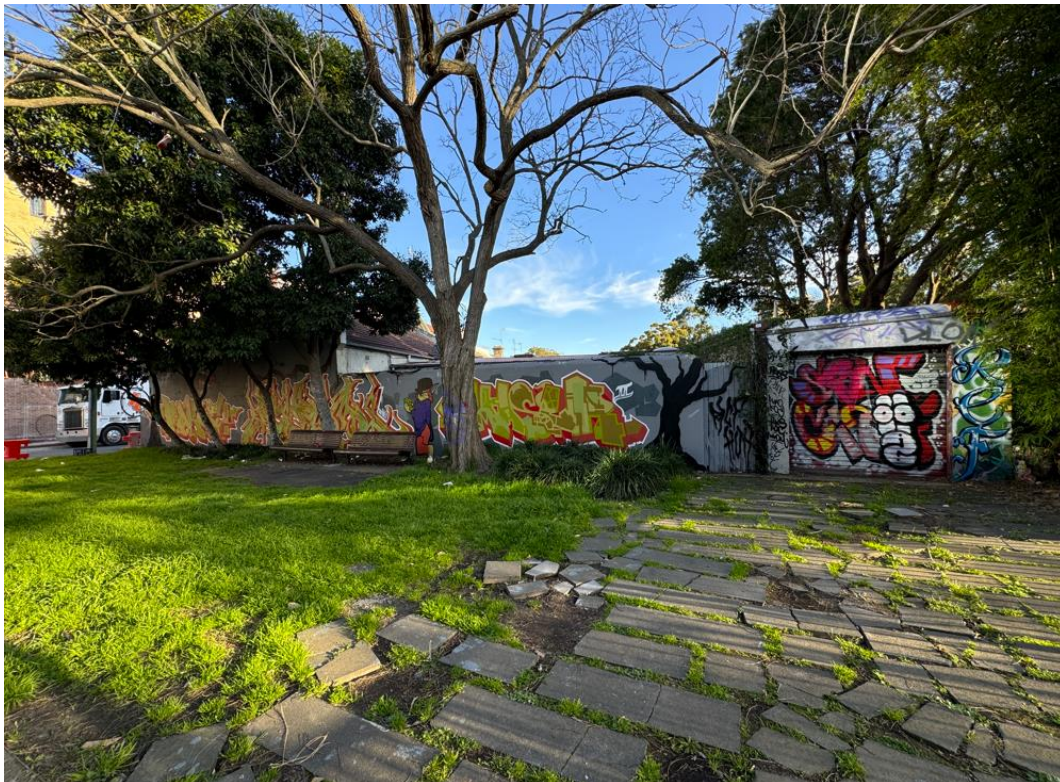


Figure 10: James Street Reserve and No. 2 Marriott Street to the south of the site (22 August 2024)



Figure 11: Site viewed from James Street showing interface with the rear of the adjoining terrace at No. 373 Cleveland Street (22 August 2024)



Figure 12: Surry Hills Village to the east of the site at 2-38 Baptist Street and 397-399 Cleveland Street viewed from Marriott Street (22 August 2024)



Figure 13: Adjoining row of two storey residential terraces adjoining the site to the west at Nos. 365-373 Cleveland Street (11 November 2023)



Figure 14: Site viewed from across Cleveland Street facing south-east showing the Surry Hills Village (left) and adjoining row of terraces (right) (22 August 2024)



Figure 15: Surry Hills Village viewed from the intersection of Cleveland and Baptist Streets (16 August 2024)

History Relevant to the Development Application

Pre-Development Application Advice

9. The following development application and pre-development application advice letters are relevant to the current proposal:

- **D/1997/1063**

Development consent was granted on 19 November 1997 for the demolition of the existing service station and construction of a single storey car wash facility with café, operating daily.

Condition 13 of this consent restricted the hours of operation to between 7.00am and 9.00pm Mondays to Fridays, 7.00am to 8.00pm on Saturdays, and 8.00am to 7.00pm on Sundays.

Condition 51 of the consent states that the storage tanks were removed in 1990 at the closure of the trading as a service station, back filled and re-surfaced.

- **PDA/2020/193**

A pre-development application (Pre-DA) request for the subject proposal was received by Council officers on 14 August 2020. The Pre-DA scheme comprised demolition of the existing structures on site, construction of a 3-storey mixed use building with a basement car park, retail on ground and two (2) commercial levels above (refer to Figures 16 to 17). The proposal included a new vehicular

driveway at the rear of the site, on the James Street bend and the community garden/ James Street Reserve.

Pre-DA advice was provided to the applicant on 28 September 2020 which raised the following key matters:

- (i) Driveway - Location of the driveway is not supported and not considered viable given constraints due to the bend in the road, and as it would result in a safety risk for pedestrians utilising the through-site link from Baptist Street to Marriott Street that forms part of the new Surry Hills Shopping Village.
- (ii) Pedestrian Awning - Requirement for an awning to be provided along Cleveland Street and Marriott Streets in keeping with Section 3.2.4 of Sydney DCP 2012.
- (iii) Building voids - Proposed voids and the potential exceedance in Floor Space Ratio (FSR) that may occur in the future following infilling of voids.
- (iv) Overshadowing impacts - Shadow diagrams to take into consideration any solar panels that are in close proximity to the development and maintain solar access to the James Street Reserve in accordance with Section 3.2.1.1 of Sydney DCP 2012.
- (v) Material finishes within the heritage conservation area - Building exteriors to be designed with a masonry character to respond to the materiality of the Baptist Street heritage conservation area (C53).

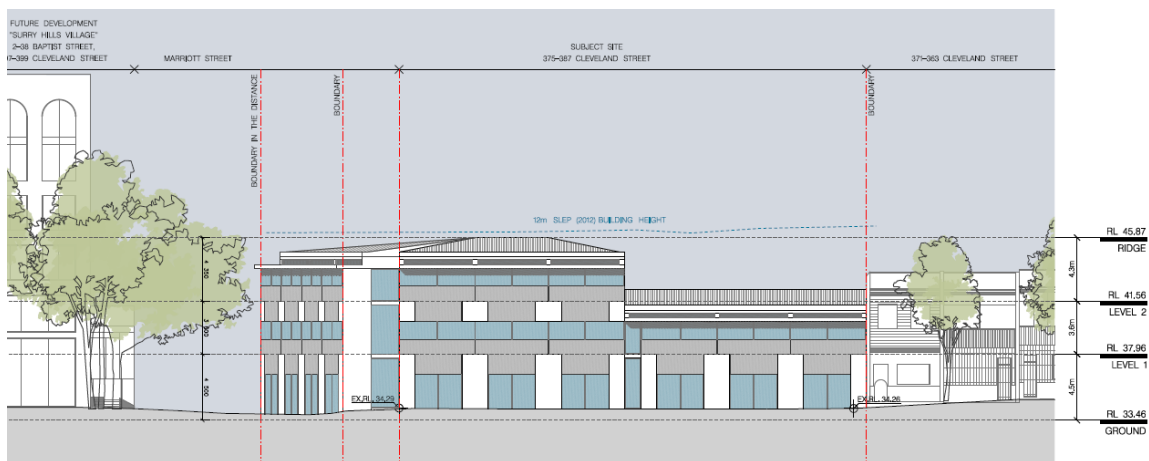


Figure 16: Pre-DA Scheme 1 - Cleveland Street Elevation

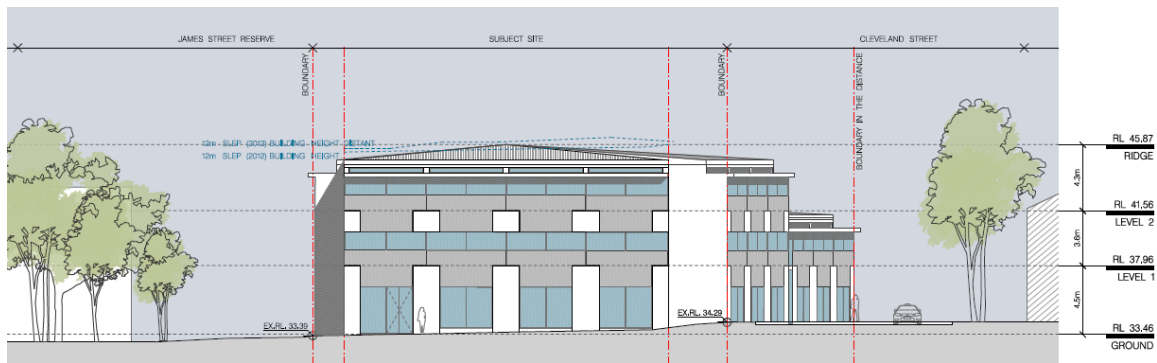


Figure 17: Pre-DA Scheme 1 - Marriott Street Elevation

- **PDA/2022/150**

A second Pre-DA request for the subject proposal was received by the City on 14 July 2022. The revised Pre-DA scheme included basement vehicular entry from Marriott Street, retail on ground, first floor supermarket, and commercial offices with an external garden on the second floor (refer to Figures 18 to 20).

The Pre-DA advice provided on 22 August 2022 raised the following summarised matters:

- (i) Building voids - The proposed multi-levelled voids are not supported as they could be infilled at a later date, which would also likely exceed the FSR development standard.
- (ii) Building height and FSR - The proposal exceeds the maximum permissible height of 12m by 2.5m. The parts of the proposal which exceed the height development standard can be integrated into the building height and envelope, given the extensive building voids that are proposed throughout the building.
- (iii) Overshadowing impacts - The proposal concentrates bulk at all edges of the site, which results in extensive overshadowing of the James Street Reserve and community garden. It is recommended that the plant is integrated into a compliant height and envelope, with minimised bulk at the western edge of the site to reduce visual bulk and overshadowing impacts.
- (iv) Ceiling heights - Low ground level ceiling heights provide poor internal amenity for Street level tenancies, and do not provide for flexible future uses of the site. Complying floor to floor heights must be provided at ground and first floor levels in keeping with Section 4.2.1.2 of Sydney DCP 2012.
- (v) Heritage impacts within the heritage conservation area - The material palette comprising extensive glazing and metal blades for articulation does not address the values of the heritage conservation area. The development should form an appropriate 'bookend' for the western corner of Marriott Street with consideration for the masonry face brick materiality of the Surry Hills Shopping Village.

- (vi) Site servicing, parking and transport - The proposal must demonstrate appropriate site servicing and bike parking, noting that Marriott Street is a one-way street and is subject to flooding. Waste must be collected on site.

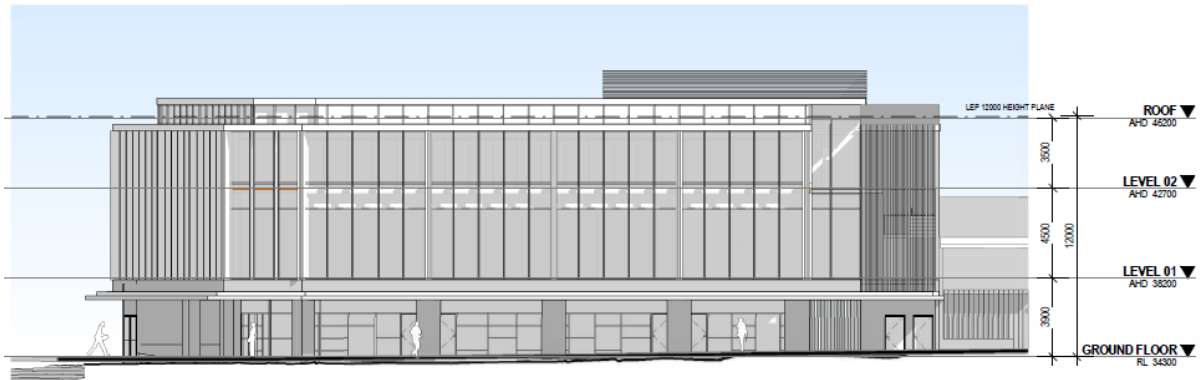


Figure 18: Pre-DA Scheme 2 - Cleveland Street Elevation

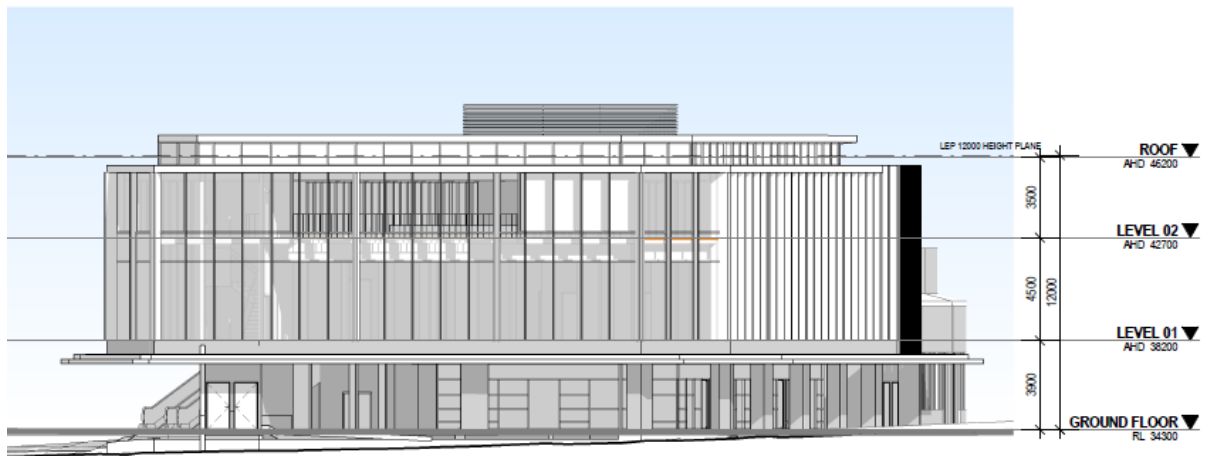


Figure 19: Pre-DA Scheme 2 - Marriott Street Elevation

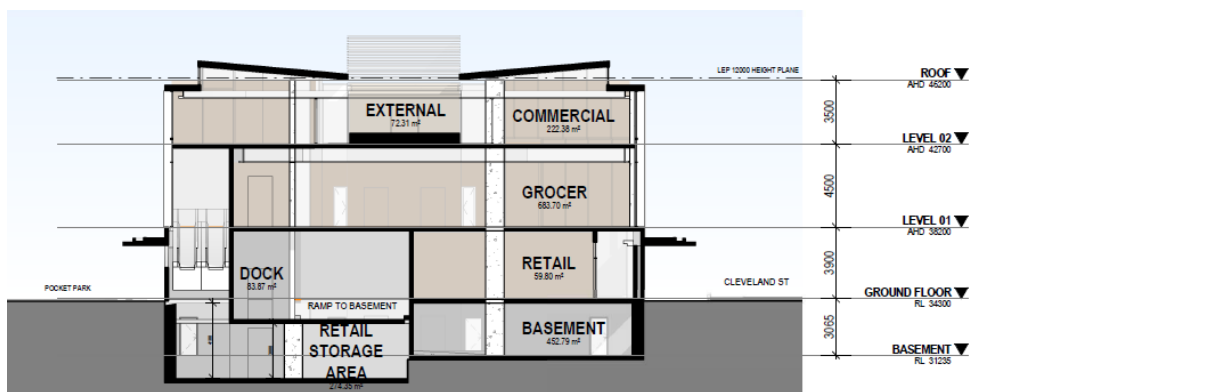


Figure 20: Pre-DA Scheme 2 - Section

10. A number of design iterations have been undertaken by the applicant to achieve an appropriate design response for the site. The proposal, as amended, has addressed the key matters that were raised at the time of the Pre-DAs as well as during the assessment of the subject application (refer to discussion under the heading 'Amendments' below).

Amendments

11. Since the lodgement of the development application, a number of amendments and packages of additional information have been received by the City throughout the period between August 2023 and May 2024. The requested additional information and amendments received are summarised below.
12. On 25 August 2023, a request for additional information was sent to the applicant seeking a revised Clause 4.6 variation statement, updated FSR calculation in accordance with the gross floor area (GFA) definition of the Sydney LEP 2012, and a letter prepared by a NSW EPA Site Auditor to comment on the validity of the submitted Site Audit Statement (SAS) prepared on 30 June 1999 in accordance with current NSW EPA guidelines for Land Contamination.
13. On 13 September 2023, the applicant responded to the request through submission of an amended Clause 4.6 and revised plans but requested that the contamination investigation be considered as a deferred commencement condition, as the minimum soil sampling requirements are unmanageable in the context of the current operations (daily operation of the car wash).
14. On 27 October 2023, a letter requesting further information and amendments was sent to the applicant raising the following matters:
 - (a) Design modifications to minimise overshadowing impacts to the James Street Reserve Community Garden and Reserve by way of reducing building bulk and scale.
 - (b) Redesign to address flooding, stormwater and public domain issues. The proposed flood gates are to be deleted and building redesigned to comply with minimum flood entry levels.
 - (c) Amend the interface between the loading dock, pedestrian and vehicle entry to resolve safety within the loading dock area. Minimise the width of the vehicular crossover to reduce conflicts with pedestrian movements along Marriott Street.
 - (d) In relation to the Surry Hills Shopping Village currently under construction; revised plans to show the widening of the existing footpath along the eastern side of Marriott Street (associated with the Voluntary Planning Agreement), as well as the new raised pedestrian crossing on Marriott Street connecting the James Street Reserve to the through site link from Marriott and Baptist Streets in an east-west direction (endorsed by the City's Local Pedestrian, Cycling and Traffic Calming Committee (LPCTCC) on 20 October 2022).
 - (e) Revised traffic impact statement including swept path analysis with justification on whether approved works in the roadway associated with the Surry Hills Shopping Village will impact the design, and rectifications of discrepancies in car and bicycle parking calculations.

- (f) Amendments to the building scale, form, bulk and materiality to provide an appropriate response to the heritage conservation area. Redesign the ground floor shopfronts to be of a higher quality design with more subdivision of the glazing, base walling and materiality.
 - (g) Design improvements to the interface between the proposal and the James Street Reserve (to the south) and residential terraces (to the west). Setback the proposed basement excavation to protect the integrity of neighbouring contributing buildings to the west. The basement design is to be based on advice provided by a qualified structural engineer, with consideration of the findings of the onsite geotechnical investigation. A structural statement is to be submitted outlining the methodology for excavation and subsequent shoring of neighbouring buildings to the west of the site, to avoid undermining of the neighbouring buildings.
 - (h) Provision of an unencumbered non-trafficable landscaped green roof.
 - (i) Design of the awning must be setback 1.5m from the kerb to ensure sufficient space is provided between the two existing street tree trunks and new structure to allow future tree growth along Cleveland Street.
 - (j) Amended drawings to resolve drafting issues and discrepancies in the lodgement package.
 - (k) Submission of a Signage Strategy for the development in accordance with Section 3.16 of the Sydney DCP 2012.
 - (l) Submission of a Preliminary Public Art Plan to address the requirements of the City's Interim Guidelines for Public Art in Private Developments.
15. On 13 November 2023, a meeting was held between Council officers and the applicant's representatives to discuss the significant design issues, overshadowing impacts, building height, flood and facade design.
16. Following this meeting, a set of preliminary draft revised architectural plans were received from the applicant on 14 November 2023. The draft plans included the below amendments:
- (a) Deletion of the blade wall along the western boundary.
 - (b) Removal of previously proposed flood barriers, deletion of a ground floor retail tenancy and adjustments to the vehicular entry ramp to the basement.
 - (c) An amended elevations showing inclusion of a masonry plinth to the ground floor shopfronts.
17. On 4 December 2023, preliminary comments on the draft revised scheme were provided to the applicant requesting:
- (a) Further design investigation and amendments to minimise overshadowing to the James Street Reserve Community Garden, in particular solar access to the northern part of the garden.
 - (b) Deletion of the proposed reliance on flood gates as a flood mitigation measure.

- (c) Inclusion of a masonry plinth to the base of windows to enhance the solid to void ratio of the facade to provide a greater level of integration into the Baptist Street heritage conservation area.
18. The applicant provided a formal response to the above requests on 11 March 2024. The revised package included amended architectural and landscape plans, structural certification, traffic report, preliminary public art plan, detailed site investigation, glazing details and an updated Clause 4.6 written request.
 19. On 26 March 2024, a further meeting was held with the applicant to discuss the previously raised design issues. The applicant was advised that the design still resulted in unacceptable overshadowing impacts to the James Street Reserve Community Garden.
 20. A final opportunity was provided to the applicant to amend the proposal:
 - (a) Reduce the bulk and scale of the building at the south-west corner to improve solar access to the community garden.
 - (b) Provide an integrated finish to the western blank wall visible from Cleveland Street.
 - (c) Incorporate passive shading to the north and eastern facades to reduce reliance on mechanical heating/ cooling.
 - (d) Revised Flood Risk Management Report, Stormwater Plans and Clause 4.6 variation statement to reflect the amended scheme.
 21. The applicant responded to the above on 22 May 2024 and submitted the above amendments including a revised Flood Risk Management Report, Stormwater Plans and Clause 4.6 written request.
 22. Given the history of chemical storage and motor vehicular repair on the site, and the findings of the Detailed Site Investigation, a Remediation Action Plan and Interim Letter of Advice prepared by a NSW EPA Accredited Site Auditor was requested on 6 June 2024.
 23. The applicant submitted the Remediation Action Plan, Interim Letter of Advice and Acid Sulfate Soils Management Plan on 2 and 7 August 2024.
 24. The assessment provided in this report is based on the amended application received on 22 May 2024 and the additional information received on 6 June, 2 and 7 August 2024 outlined above.

Proposed Development

25. The subject development application, as amended, seeks development consent for the demolition of the existing buildings and structures on the site, excavation, and erection of a new 3-storey commercial building over a single level basement.
26. The specific use, fit-out and operation of each tenancy is not sought and will be subject of separate applications.
27. Specifically, the proposal involves the following:

Basement Level

- Excavation to a depth of approximately 4.5m to accommodate a basement level.
- Basement containing parking for 12 cars, 14 bicycle parking spaces, end of trip facilities and various plant rooms.

Ground Floor

- Three retail tenancies fronting Cleveland Street, anticipated to be occupied by retail, café or restaurants (subject to future applications).
- Though site lobby at the western portion of the building connecting to the lift core, building services and communal sanitary facilities.
- Pedestrian entry to the first-floor commercial tenancy is provided via the escalators located at the south-eastern corner of the site.
- Vehicular entry via Marriott Street, a loading area with a turn table, two service vehicle spaces (for a small rigid vehicle and B99 vehicle), waste storage room and basement level access ramp.

First Floor

- Single commercial tenancy anticipated to be occupied by a neighbourhood supermarket or showroom (subject to a separate future application).

Second Floor

- Commercial office, outdoor terrace, end of trip facilities, building services and mechanical plant.

Roof

- Landscaped green roof including an array of photovoltaic panels.

Signage

- A signage strategy for the site, comprising nine illuminated signage zones as follows:
 - 4 x top hamper signs labelled 'S1' (measuring 5050 x 530mm)
 - 1x top hamper sign labelled 'S2' (measuring 4800 x 530mm)
 - 1x top hamper sign labelled 'S3' (measuring 3990 x 530mm)
 - 2 x under awning signs labelled 'S6' (measuring 1500 x 350mm); and
 - 1x top hamper sign labelled 'S7' (measuring 2500 x 900mm).
- It is noted that the installation of the above business identification signs and their detailed content will be subject to individual fit out development applications or complying development certificates once final tenants are secured.

28. Selected plans and elevations of the proposed development are provided below.

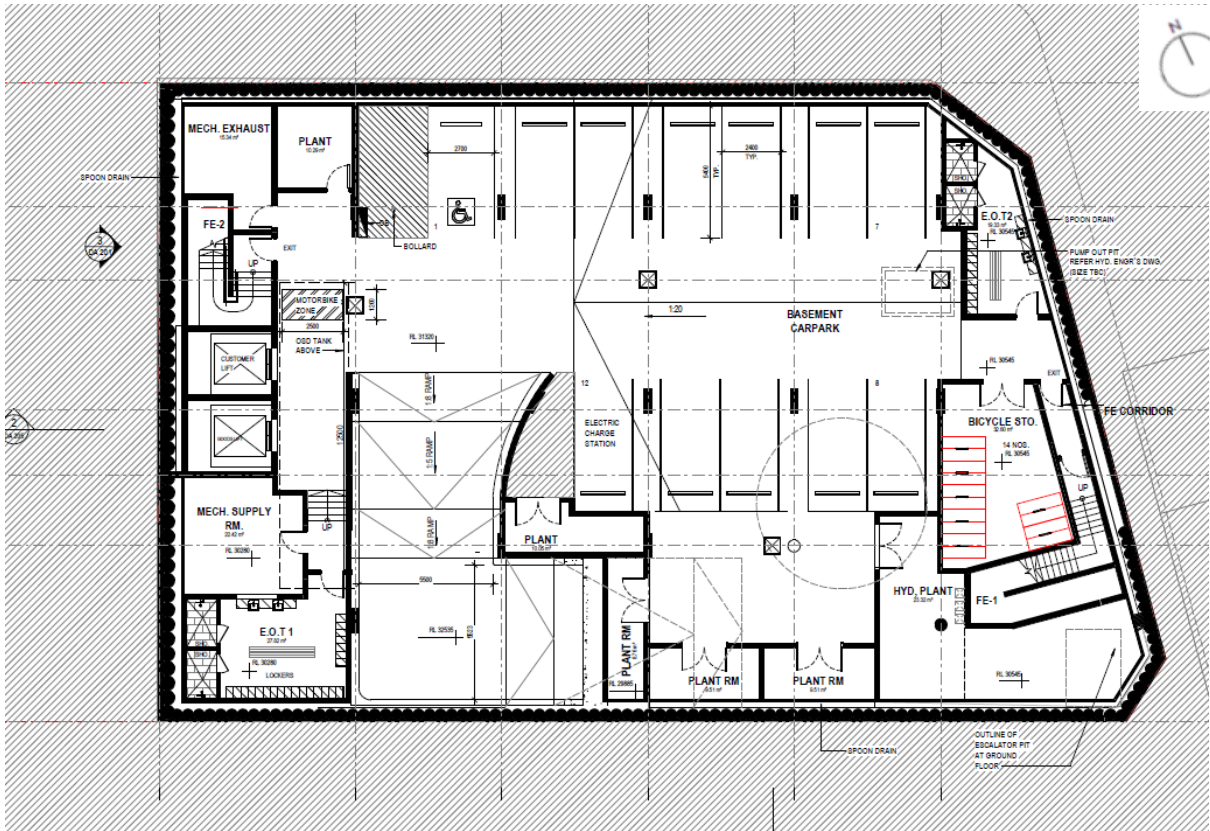


Figure 21: Proposed Basement Plan

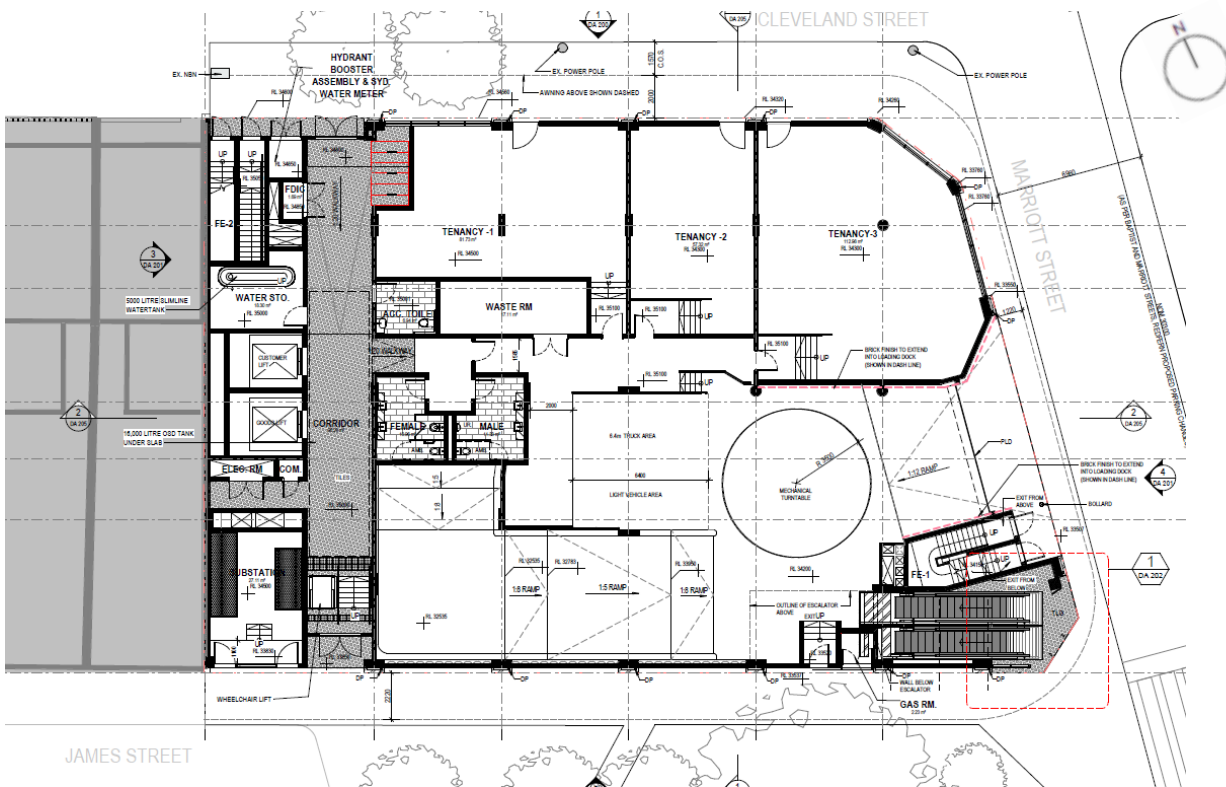


Figure 22: Proposed Ground Floor Plan

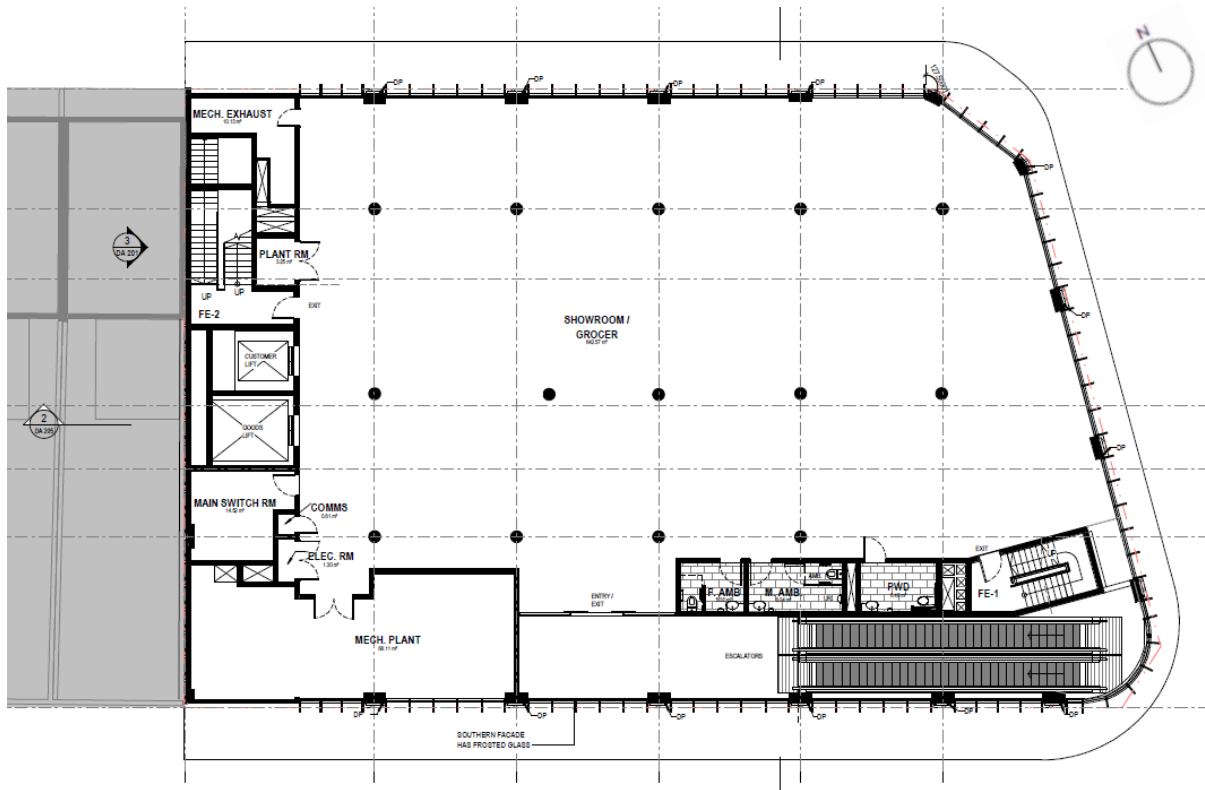


Figure 23: Proposed First Floor Plan

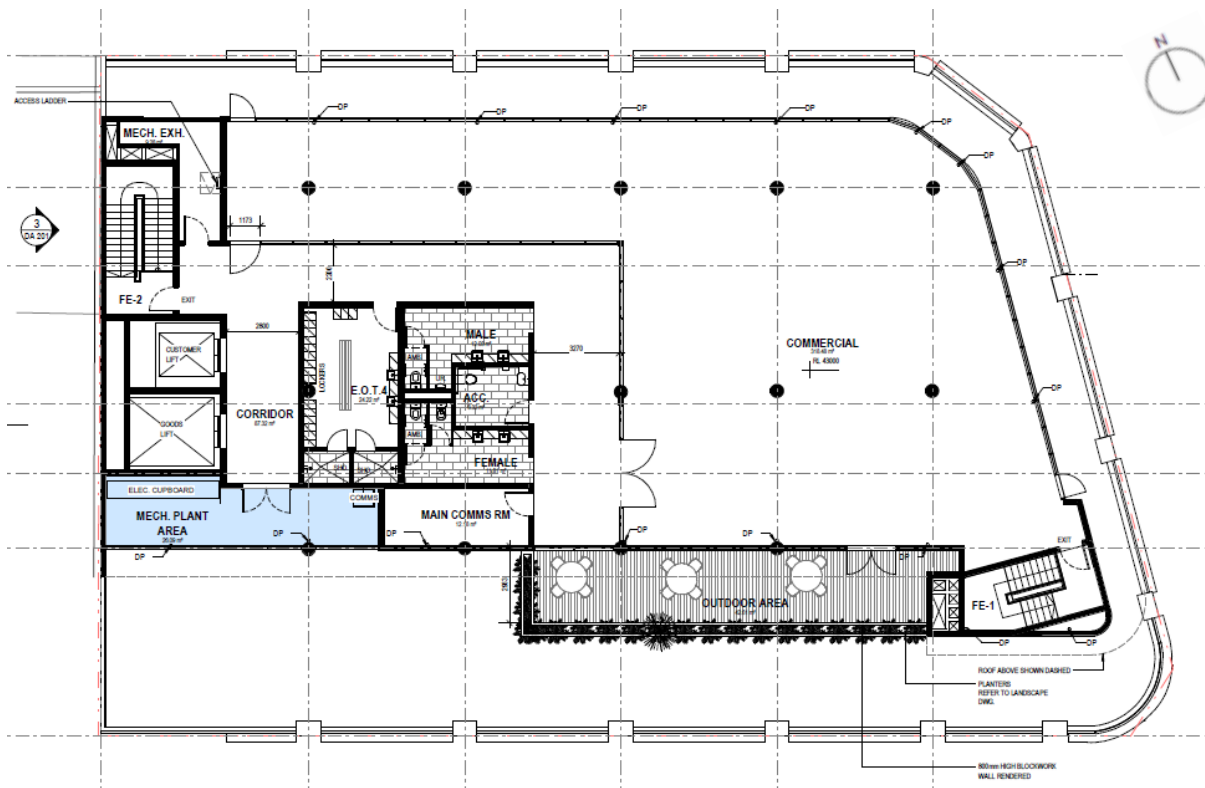


Figure 24: Proposed Second Floor Plan

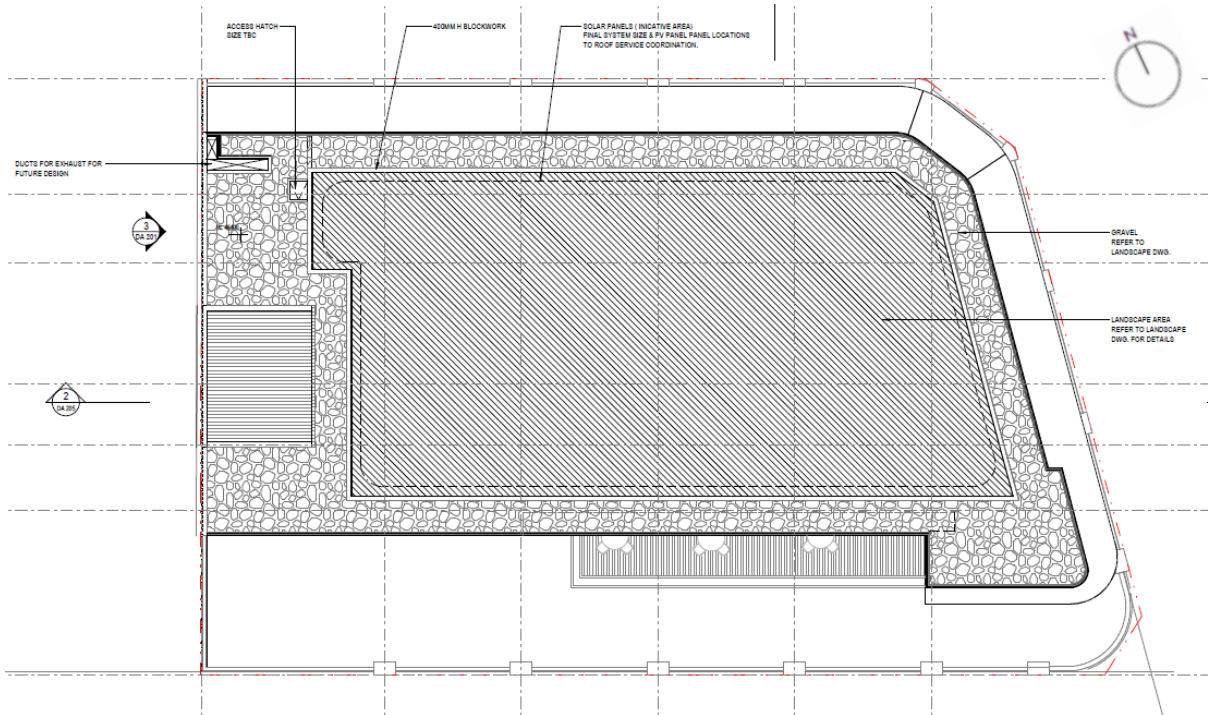


Figure 25: Proposed Roof Plan



Figure 26: Proposed North Elevation (Cleveland Street)

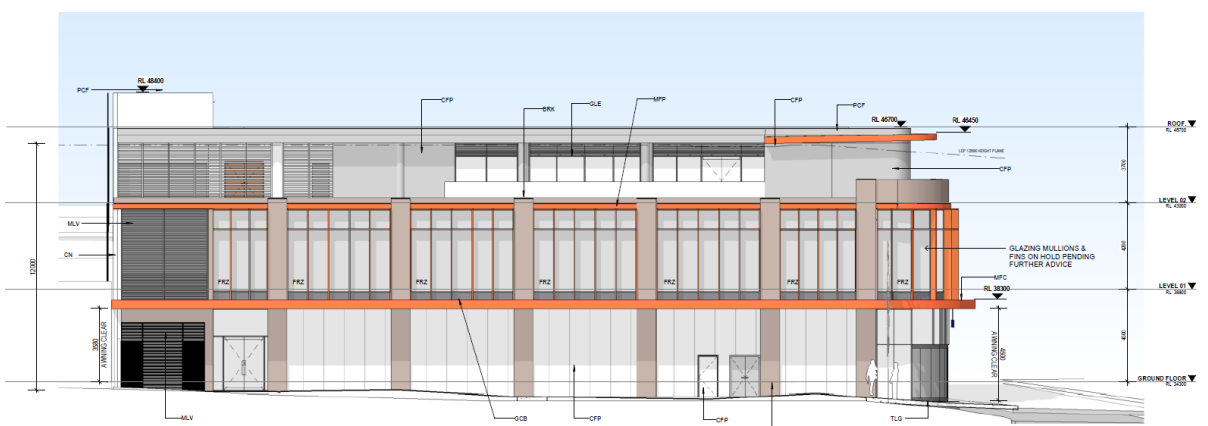


Figure 27: Proposed South Elevation



Figure 28: Proposed East Elevation (Marriot Street)

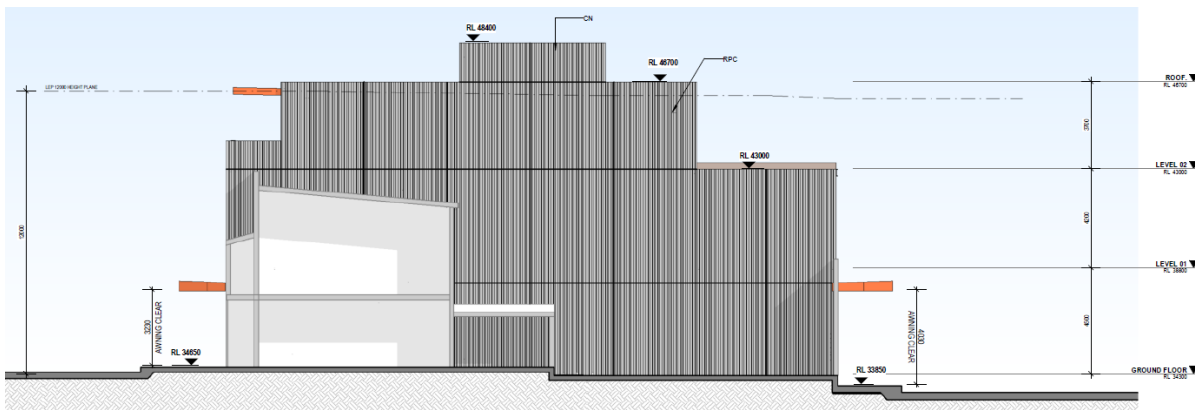


Figure 29: Proposed West Elevation

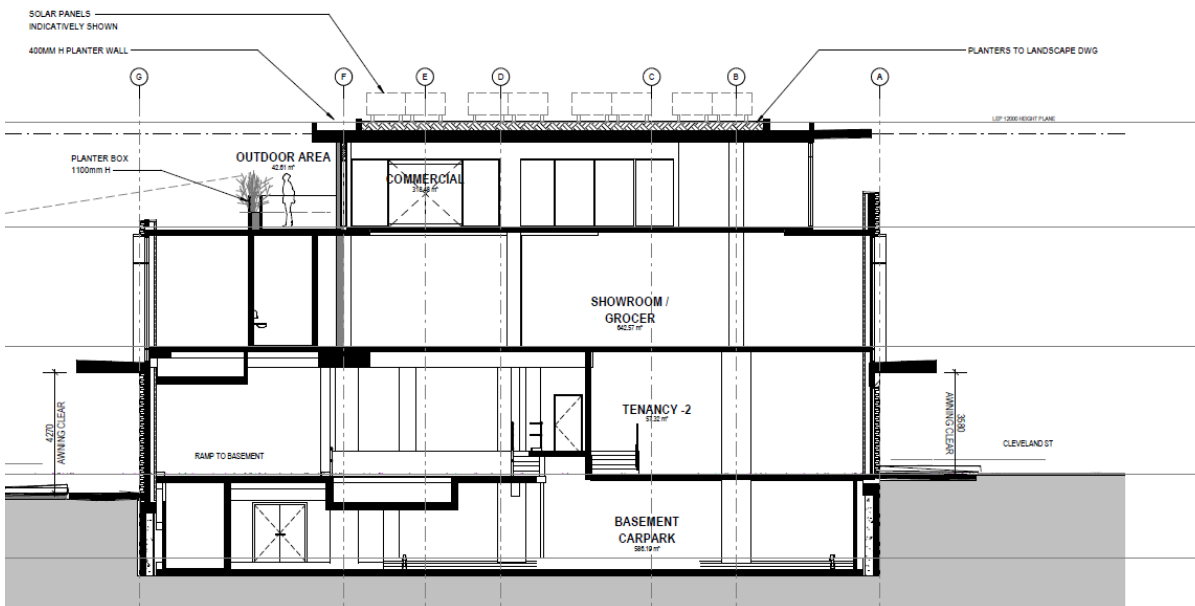


Figure 30: Proposed Section 1

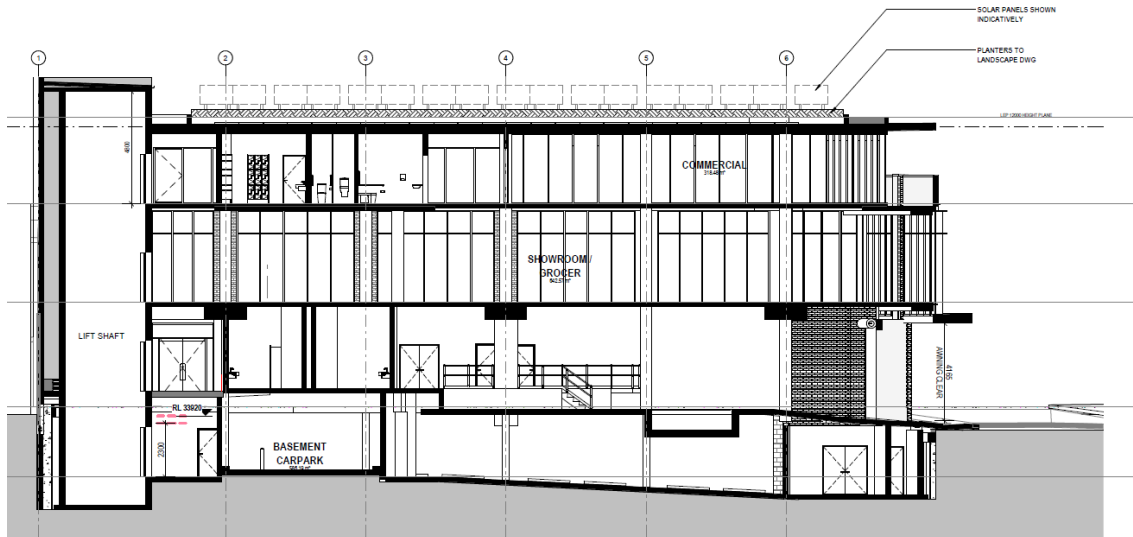


Figure 31: Proposed Section 2

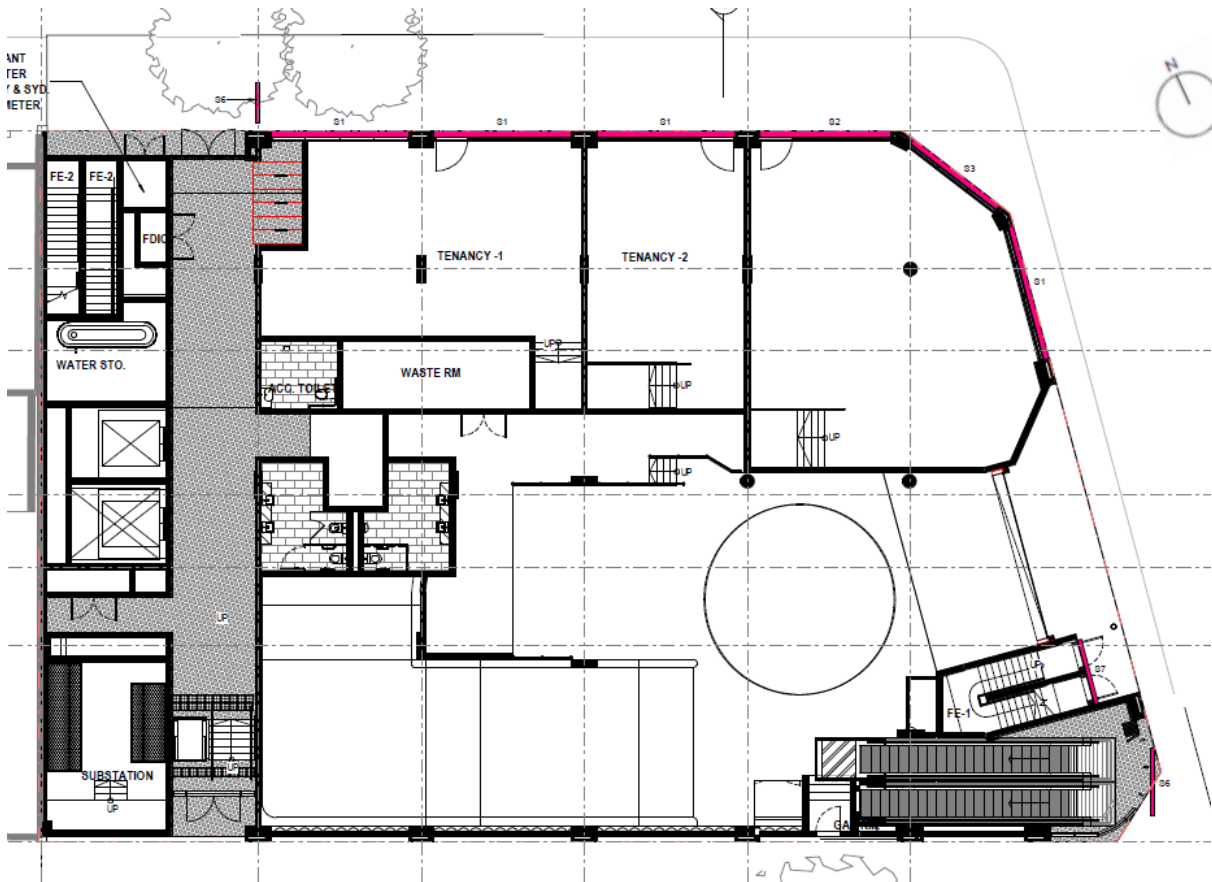
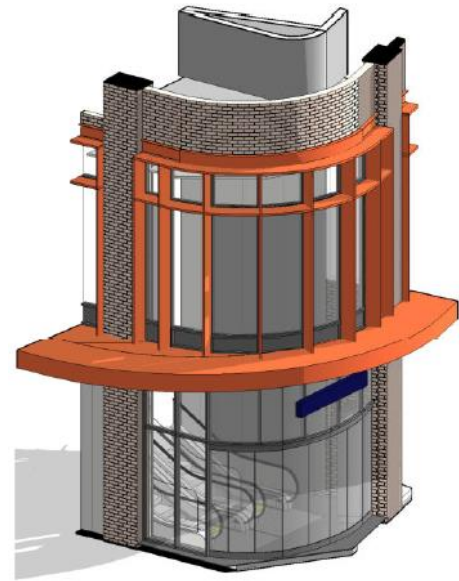
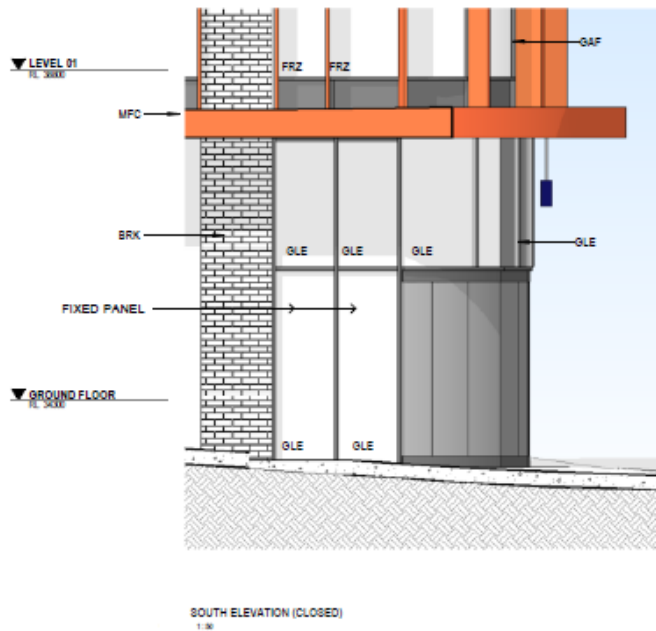


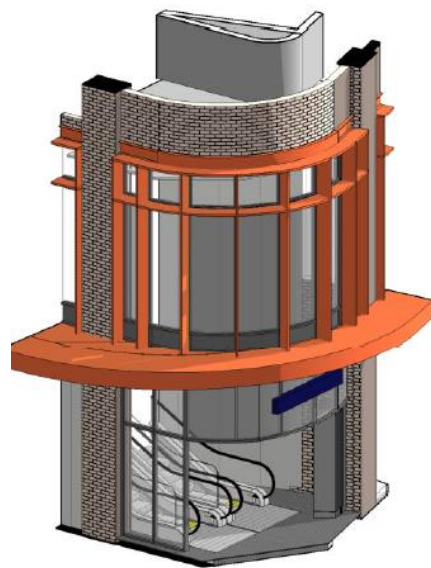
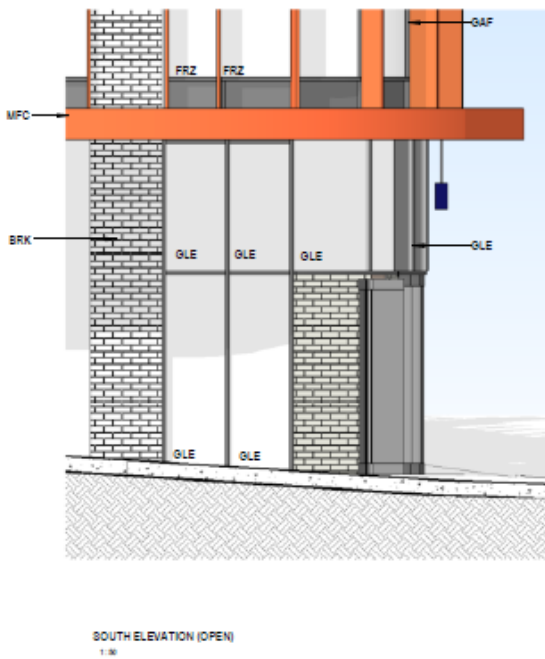
Figure 32: Proposed Signage Plan - Ground Floor



SOUTH ELEVATION (CLOSED)
1:30

ORTHOGONAL VIEW (CLOSED)

Figure 33: Proposed Escalators Entry Details (Closed)



SOUTH ELEVATION (OPEN)
1:30

ORTHOGONAL VIEW (OPEN)

Figure 34: Proposed Escalators Entry Details (Open)



Figure 35: Photomontage of the proposed development viewed from the intersection of Cleveland and Marriott Streets

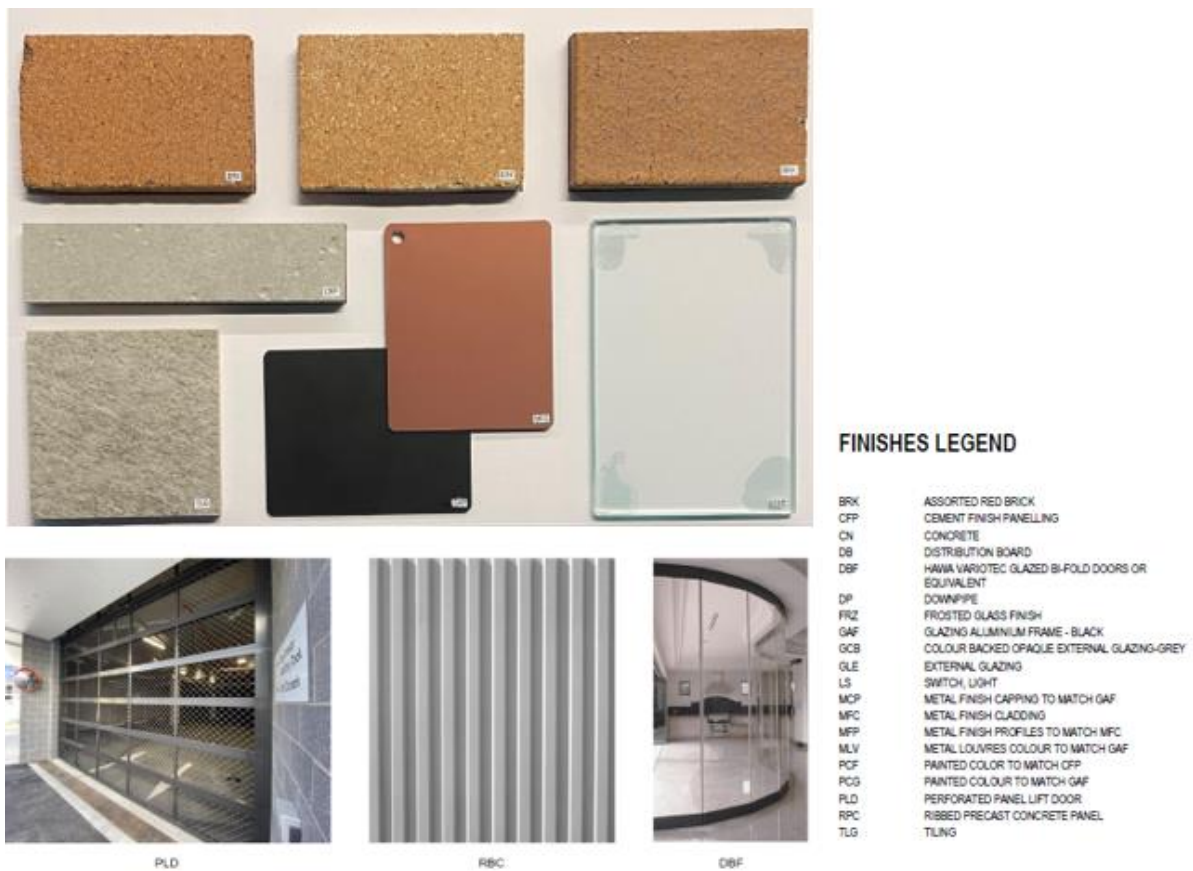


Figure 36: Proposed Materials and Finishes

Assessment

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

Water Management Act 2000

30. The submitted Geotechnical Report prepared by Aargus states that ground water seepages are likely to occur during the proposed basement bulk excavation works (to approximately RL 30.2m), subject to ground conditions and the type of shoring adopted for excavation support. Ground water levels within the site are expected to be encountered between RL 31.4m to RL 27.7m.
31. The applicant has not elected to lodge the subject development as an Integrated Development Application pursuant to Section 4.47 of the Environmental Planning and Assessment Act 1979.
32. The proposal requires separate concurrence from Water NSW pursuant to Section 90(2) of the Water Management Act 2000.

State Environmental Planning Policies

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

Remediation of Land

33. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
34. Clause 4.6 of the SEPP states the consent authority must not consent to the carrying out of any development on land unless it is satisfied the land is suitable in its contaminated state (or will be suitable, after remediation). Pursuant to Section 4.6(3), the consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.
35. A Site Audit Statement (SAS) dated 30 June 1999 prepared by NSW EPA Accredited Auditor Philip James Mulvey of Environmental and Earth Sciences Pty Ltd, Detailed Site Investigation (DSI) prepared by Aargus, Remediation Action Plan (RAP) prepared by Argus and Interim Letter of Advice prepared by Geosyntec Consultants accompanies this application.
36. The historic uses on the site comprised terrace-style buildings owned by separate individuals (between c.1955-1961) and a service station owned by Esso Standard Oil Corporation (c.1962/1963). In 1998 -1999 the service station was decommissioned and remediated, and has since operated as a car wash facility to the present day.
37. The key findings from the DSI for potential contamination and Acid Sulfate Soils (ASS) is summarised as follows:

- (a) No visual or olfactory indicators of contamination were observed in soil and groundwater, except for minor hydrocarbon odour in soil at one location in the vicinity of the former tankpit (located at the southern portion of the site).
 - (b) For all soil samples, contaminant concentrations were either below laboratory detection or the adopted commercial land use criteria.
 - (c) No asbestos fragments were identified in soil/fill at the site.
 - (d) No actual ASS were present, however potential ASS were identified in fill and natural soil at depths between 0.2 and 4.3m below ground level, which triggers the requirement for an Acid Sulfate Soil Management Plan (ASSMP).
 - (e) The soil profile under the concrete slab, comprised silty/clayey sandy fill and crushed sandstone to a maximum depth of 2.5m below ground level, underlain by clayey sand with sandstone bedrock at 4m below ground level.
 - (f) Perched groundwater was encountered between 3.5 and 3.8m below ground level. The groundwater results met adopted assessment criteria, with the exception of zinc in three groundwater samples (GW1 to GW3) and PAH (anthracene) in one sample (GW3). Total Petroleum Hydrocarbons (TPH) as well as Benzene, Toluene, Ethyl benzene and Xylene (BTEX) were detected in two groundwater samples (GW2 and GW3).
38. The DSI concludes that based on the results of the investigation, the risks to human health and the aquatic environment associated with soil and groundwater contamination at the site are considered low in the context of the proposal. The site can be rendered suitable for the proposed use, subject to the preparation of a RAP and further groundwater characterisation is required to confirm residual hydrocarbons do not pose a risk to the future land use.
39. Accordingly, a RAP has been prepared by Argus which sets out the following summarised remedial strategy:
- (a) Site establishment and demolition of surface structures/ pavement.
 - (b) In-situ waste classification of material for offsite disposal, prior to bulk excavation works.
 - (c) Additional groundwater characterisation (in accordance with Section 7.2 of the RAP) to confirm the extent of impact, if any, and whether remediation is required. Subject to findings, an addendum RAP may be required.
 - (d) Bulk excavation and validation sampling of the excavation, including chasing of impacted material, as required.
 - (e) Treatment (as per the ASSMP), classification and disposal of material to a licensed facility.
 - (f) Management of unexpected finds during remedial works.
40. The Interim Advice confirms that the above approach is appropriate and practical for the residual contamination identified, and the site can be made suitable for the proposed development, subject to the following requirements:

- (a) At the completion of the additional groundwater characterisation, the remedial strategy should be reviewed to confirm it is still appropriate. This report must be provided to the Auditor for review and comment.
 - (b) Implementation of the ASSMP during the excavation of the basement to ensure appropriate environmental controls are in place and soils identified as Potential ASS are treated and disposed of in accordance with the ASSMP.
41. The City's Environmental Health team has reviewed the information provided and is satisfied that the site can be made suitable for the proposed use, subject to the recommended conditions included in Attachment A. Appropriate conditions are been recommended to ensure the site is remediated and validated in accordance with above remediation measures, and to require Council to be notified should there be any changes to the above strategy.

State Environmental Planning Policy (Sustainable Buildings) 2022

42. The State Environmental Planning Policy (Sustainable Buildings) 2022 (Sustainable Buildings SEPP) commenced on the 1 October 2023 and applies to development applications lodged on or after 1 October 2023.
43. The aims of the SEPP are as follows:
- (a) To encourage the design and delivery of sustainable buildings.
 - (b) To ensure consistent assessment of the sustainability of buildings.
 - (c) To record accurate data about the sustainability of buildings, to enable improvements to be monitored.
 - (d) To monitor the embodied emissions of materials used in construction of buildings.
 - (e) To minimise the consumption of energy.
 - (f) To reduce greenhouse gas emissions.
 - (g) To minimise the consumption of mains-supplied potable water.
 - (h) To ensure good thermal performance of buildings.
44. The proposed development was lodged prior to the commencement of the Sustainable Buildings SEPP and as such the provisions of the SEPP are not applicable. Notwithstanding, the proposal incorporates passive design measures, energy and water initiatives, as well as photovoltaic panels to deliver a sustainable building on the site. The application is accompanied by a Design for Environmental Performance Template which outlines the sustainability commitments of the development. Refer to further details under Section 3.6 of Sydney DCP 2012 below.

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

45. The aim of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage is to ensure that outdoor advertising is compatible with the desired amenity

and visual character of an area, provides effective communication in suitable locations and is of high-quality design and finish.

46. The proposed business identification signage has been considered against the objectives of the policy and an assessment against the provisions within the assessment criteria set out in Schedule 1 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 surrounding Baptist Street 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.
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	Not Applicable	Not applicable.
7. Illumination	Yes	Conditions of consent are recommended to ensure that the illumination does not result in unacceptable glare, affect safety or detract from the amenity of any residential accommodation.
8. Safety	Yes	The proposed signage will not reduce the safety for pedestrians, cyclists or vehicles on public roads or areas.

47. The proposed signage is consistent with the objectives of SEPP (Industry and Employment) 2021 – Chapter 3 Advertising and Signage as set out in Clause 3.1 and satisfies the assessment criteria specified in Schedule 5.

State Environmental Planning Policy (Transport and Infrastructure) 2021

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

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

Clause 2.48 - Determination of development applications - other development

49. The application is subject to Clause 2.48 of the SEPP as it involves excavation nearby existing Ausgrid infrastructure.
50. On 21 March 2024, Ausgrid provided recommended conditions of consent to protect existing underground cables and overhead powerlines within proximity of the development. These conditions are included in Attachment A.

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

Clause 2.119 - Development with frontage to classified road

51. The application is subject to Clause 2.119 of the SEPP as the site has a frontage to Cleveland Street, which is identified as a classified road.
52. Transport for NSW reviewed the submitted documentation and raised no objection, subject to conditions of consent which are included in Attachment A.

Clause 2.122 - Traffic-generating development

53. Clause 2.122 of the SEPP applies to specific developments on sites with access to a classified road, or sites accessed via a road within 90m of a connection to a classified road.
54. Although the proposal is not a development listed in Column 1 of Schedule 3 of the SEPP a referral was still made to Transport for NSW. Transport for NSW reviewed the submitted documentation and raised no objection subject to recommended conditions included in Attachment A.

Local Environmental Plans

Sydney Local Environmental Plan 2012

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

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	<p>The site is located in the MU1 Mixed Use zone. The proposed development is defined as commercial development, comprising retail premises, neighbourhood shop and office uses which are permissible with consent in the zone.</p> <p>The proposed development is consistent with the objectives of the zone.</p>

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	No	<p>A maximum building height of 12 metres is permitted.</p> <p>A height of 14.3 metres is proposed.</p> <p>The proposed development does not comply with the maximum height of buildings development standard.</p> <p>A request to vary the height of buildings development standard in accordance with Clause 4.6 has been submitted.</p> <p>Refer to further details and assessment provided in the 'Discussion' section below.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 1.5:1 or 1,494sqm is permitted for the site pursuant to Clause 4.4 of Sydney LEP 2012.</p> <p>Pursuant to Clause 6.13, the site is also eligible for end of journey floor space equal to the floor space occupied by showers, change rooms, lockers and bicycle storage areas (not exceeding an FSR of 0.3:1 of the building). In this instance permitting an additional area of 103.97sqm (maximum FSR of 1.6:1, GFA of 1,597.97sqm).</p> <p>The proposal seeks a FSR of 1.58:1 and GFA of 1577.4sqm.</p> <p>The proposal therefore complies with the maximum floor space ratio development standard pursuant to Clause 4.4 and 6.13 of Sydney LEP 2012.</p>

Provision	Compliance	Comment
4.6 Exceptions to development standards	Yes	<p>The proposed development seeks to vary the height of buildings development standard prescribed under Clause 4.3 of the Sydney LEP 2012. A Clause 4.6 variation request has been submitted with the application.</p> <p>See further details and assessment in the 'Discussion' section below.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.4 Controls relating to miscellaneous permissible uses	Yes	<p>Subclause (7AA) of Clause 5.4 stipulates that the gross floor area of development for the purposes of a neighbourhood supermarket must not exceed 1,000 square metres.</p> <p>The gross floor area of the proposed neighbourhood supermarket use on the first floor is 705.46sqm, which complies with this control.</p>
5.6 Architectural roof features	Not Applicable	The proposal does not contain an architectural roof feature.
5.10 Heritage conservation	Yes	<p>The site is not identified as a heritage item but is located within the Baptist Street heritage conservation area (C53). The site is within the vicinity of three local heritage items along Cleveland Street, Item Nos. I1305 (Former Bank of NSW including interior at 397-399 Cleveland Street), I1479 (Terrace house including interior at 396-398 Cleveland Street) and I1478 (Former 'Matis Pharmacy' including interior at 380 Cleveland Street).</p> <p>The development is accompanied by a Heritage Impact Statement (HIS) prepared by Urbis. The proposal presents an opportunity to remove the existing detracting car wash facility and replace it with a sympathetic contemporary infill commercial development that will enhance the setting of the heritage conservation</p>

Provision	Compliance	Comment
		<p>area. The proposed building has been designed with minimal setbacks from the boundaries of the site to respond to the minimal setback pattern of the adjoining developments, which include contributory and heritage items situated along Cleveland Street. The proposed high-quality material finishes (including red brick and exposed concrete) are in keeping with the traditional materials found in the nearby contributory buildings and contributes towards the character of the locality. The proposed development enhances the significance and character of the Baptist Street heritage conservation area and will not have a detrimental impact on the heritage significance of contributory buildings or nearby local heritage items.</p> <p>The proposal is also accompanied by structural statement and methodology for excavation prepared by Dunnings Consulting Engineers. The structural statement recommends a cantilevered secant shoring retention solution for the proposed bulk excavation of the basement level and confirms that the structural integrity of the adjoining neighbouring buildings will not be adversely affected or compromised during construction of the building.</p> <p>Council's Heritage Specialist advised the proposal is acceptable and is satisfied that the proposed excavation of the basement will not undermine the footings of the adjacent terraces, subject to conditions.</p> <p>Conditions are recommended to require compliance with the construction methodologies of the Structural Statement.</p>
5.21 Flood planning	Yes	The site is identified as being subject to flooding and is located within the Alexandra Canal catchment, which

Provision	Compliance	Comment
		<p>drains down Cleveland Street and discharges south along Marriott Street.</p> <p>The proposal, as amended, has been designed to comply with the City's Interim Floodplain Management Policy which requires a minimum flood planning level of RL 34.20 for the basement entry (1% AEP plus 0.5m or the PMF, whichever is greater) and RL 34.3 for retail tenancies 2 and 3, and RL 34.4 for retail tenancy 1 (1% AEP).</p> <p>The submitted revised Site-Specific Flood Risk Management Report prepared by IGS Pty Ltd confirms that the proposed development does not impact the existing 1% AEP flood behaviour within the vicinity of the site.</p> <p>The proposal has been reviewed by the City's Public Domain Unit and is acceptable in relation to flood behaviour, safe occupation and evacuation, risk to life and impact on the environment, subject to recommended conditions in Attachment A.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 2 Additional floor space outside Central Sydney		
<p>6.12 Additional floor space outside Central Sydney</p> <p>6.13 End of journey floor space</p>	Yes	<p>The entirety of the site is used for commercial premises and is eligible for end of journey floor space equal to the floor space occupied by those facilities, up to a maximum FSR of 0.3:1.</p> <p>The proposed development includes 103.97sqm of end of journey floor space, or an additional FSR of 0.10:1, and complies.</p> <p>A condition is recommended to require a restrictive covenant for the area of the end of journey floor space to be registered on the Title of the</p>

Provision	Compliance	Comment
		development prior to the issue of any Occupation Certificate.
Division 4 Design excellence		
<p>6.21 Objective</p> <p>6.21B Application of Division</p> <p>6.21C Design Excellence</p>	Yes	<p>The proposal, as amended, is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the area.</p> <p>The proposed development has been designed with a two-storey base to reflect the predominate scale of the street wall along Cleveland Street. The second storey is setback to minimise bulk and massing of the development and is of a complementary scale to the contributory buildings within the Baptist Street heritage conservation area. The design of the development includes the integration of landscape design on the roof top (green roof), provides visual interest and will enhance the ground level interface between the building and public domain along Cleveland Street, Marriott Street and the James Street Reserve.</p> <p>The western elevation (including the lift overrun) will be constructed in a ribbed precast concrete panel to moderate the visual impact of the building when approaching the site from the west along Cleveland Street and James Street. Such detail will ensure the blank side walls visible above the adjacent terraces has a visually interesting treatment of high-quality design and materiality and is of low maintenance.</p> <p>The development achieves the principle of ecologically sustainable development and has an acceptable environmental impact with regard to the amenity of the surrounding area and future occupants.</p>

Provision	Compliance	Comment
		<p>The proposed materials and finishes are supported by Council's Urban Designer, subject to conditions requiring the provision of further detail and actual specifications of materials to be submitted and approved prior to the issue of any Construction Certificate. Conditions are recommended to:</p> <ul style="list-style-type: none"> • Ensure the car park door and reveals on the Marriott Street Elevation to be finished in a high-quality and durable materials. • Require details and specifications of the external clear glazing. <p>Subject to conditions, the proposed development exhibits design excellence pursuant to Clause 6.21, 6.21B and 6.21C of Sydney LEP 2012.</p>
6.21D Competitive design process	Not Applicable	<p>A competitive design process under Clause 6.21D is not required to be undertaken as the development does not exceed a height of 25m, does not have a capital value of more than \$100,000,000, and a development control plan is not required to be prepared under Clause 7.20 of Sydney LEP 2012.</p>

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.6 Office premises and business premises 7.7 Retail premises	Yes	<p>A maximum of 22 car parking spaces are permitted for the commercial and retail uses.</p> <p>The proposed development includes 12 car parking spaces and complies with the relevant development standards.</p>
Division 3 Affordable housing		

Provision	Compliance	Comment
7.13 Contribution for the purpose of affordable housing	Yes	<p>The site is identified as 'residual land' and involves the erection of a new building with a gross floor area of more than 200 square metres.</p> <p>In accordance with Clause 7.13(2C)(b)(ii), an affordable housing levy contribution levy of 1% of the total floor area of the development applies. A condition of consent is recommended to reflect this.</p>
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	<p>The site is located on land with Class 5 Acid Sulfate Soils. The site is not within 500 metres of other soil classes.</p> <p>Notwithstanding, a ASSMP prepared by Argus accompanies the development as potential ASS were identified in fill and natural soil at depths between 0.2 and 4.3m below ground level.</p> <p>Council's Environmental Health Unit has reviewed the ASSMP and advised the recommendations and management procedures are acceptable. A condition is recommended to require compliance with the ASSMP.</p>
7.19 Demolition must not result in long term adverse visual impact	Yes	<p>While the proposal includes demolition of the existing car wash facility including ancillary structures on the site, it also includes construction of a new commercial development under the same application.</p> <p>Council staff are satisfied that the site will be comprehensively redeveloped under the subject development application.</p>
7.20 Development requiring or authorising preparation of a development control plan	Not applicable	<p>The site does not have an area of 5,000sqm or more, is not located on land in Central Sydney, in an Enterprise Area or Zone E4 General Industrial Land.</p>

Provision	Compliance	Comment
		A development control plan is not required.
7.23 Large retail development outside of Green Square Town Centre and other planned centres	Yes	<p>The site is located within a restricted retail development area. Clause 7.23(3) stipulates that development consent must not be granted to development on land for the purposes of shops or markets with a gross floor area greater than 1,000 square metres.</p> <p>The proposal seeks a total gross floor area of 894.6 square metres for retail purposes and complies with this provision.</p>
7.26 Public art	Yes	<p>The submitted revised Preliminary Public Art Strategy prepared by UAP identifies opportunities for the integration of public art on the southern elevation of the development.</p> <p>The Preliminary Public Art Plan has been reviewed by Council's Public Art Unit and is supported, subject to recommended conditions.</p> <p>The submitted details provide sufficient certainty to satisfy the requirements of Clause 7.26(2), as follows:</p> <ul style="list-style-type: none"> • The artwork will not involve the display of an advertisement. • It will not increase the GFA of the building. • It will not have a significant adverse impact on the heritage conservation area or nearby heritage items. • It will not have any significant adverse impacts on the amenity of the public domain, including by overshadowing, wind or noise impacts. <p>A condition of consent is recommended to ensure public art will be implemented</p>

Provision	Compliance	Comment
		<p>in accordance with the Preliminary Public Art Plan.</p> <p>Refer to further details under Section 3.1 of Sydney DCP 2012 below.</p>
7.27 Active Street Frontages	Yes	<p>The objectives of Clause 7.27 of Sydney LEP 2012 seek to promote uses that attract pedestrian traffic along certain ground floor street frontages. The Cleveland Street and Marriott Street site frontages are identified as being required to deliver active street frontages for the retail premises.</p> <p>The proposal complies with this provision. Refer to further assessment under Section 3.2 of Sydney DCP 2012 below.</p>
7.33 Sustainability requirements for certain large commercial development	Not applicable	<p>Section 7.33 of Sydney LEP 2012 applies to the development of a large commercial development, erection of a new prescribed shopping centre, or alterations to an existing prescribed shopping centre, as defined in the SEPP (Sustainable Buildings) 2022.</p> <p>A large commercial development is defined in the SEPP as the erection of a new prescribed office premises (with a net lettable area of at least 1,000sqm), prescribed motel or hotel accommodation, or prescribed serviced apartments.</p> <p>It is also noted that Section 7.33(3) only applies to the development made on or after 1 October 2023.</p> <p>This provision is not applicable to the proposal as it does not seek the erection of the above developments. The application was also made prior to 1 October 2023.</p> <p>Refer to further details under Section 3.6 of Sydney DCP 2012 below.</p>

Development Control Plans

Sydney Development Control Plan 2012

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

Section 2 – Locality Statements

57. The site is located within the Waterloo and Redfern (Cleveland Street) special character area. This locality includes lots fronting Cleveland Street between Chalmers Street to the west and South Dowling Street to the east. The proposed development is in keeping with the unique character and the design principles of the locality pursuant to Section 2.13 of Sydney DCP 2012, as it:

- (a) replaces the existing detracting building with a new sympathetically designed building on a prominent corner site, which responds to the existing and desired character of the area, and heritage qualities of the conservation area.
- (b) contributes to the diversity of commercial and retail uses and strengthens the east-west vista of Cleveland Street.
- (c) provides fine grain tenancies on the ground floor to encourage active uses and support a greater pedestrian focus along Cleveland and Marriotts Streets.
- (d) has regard to the fabric and materiality of the locality, and is of a complementary scale to the contributory buildings within the Baptist Street heritage conservation area.

Section 3 – General Provisions

Provision	Compliance	Comment
3.1 Public Domain Elements 3.1.4 Public Open Space	Not Applicable	It is noted that the James Street Reserve and Community Garden are not identified as public open space within the Public Open Space map. Refer to discussion in Section 3.2.1.1 of Sydney DCP 2012 below.
3.1 Public Domain Elements 3.1.5 Public Art	Yes	The revised Preliminary Public Art Plan prepared by UAP is considered acceptable by the City's Public Art Unit. The proposed development will replace the existing self-portrait mural by Fintan Magee (completed in 2013) which is currently situated on the corner of Cleveland and Marriott Street. The new public artworks aim to highlight the site narrative, support a sense of place identity for the building, and celebrate the talent of local artists in response to the specific context of the

Provision	Compliance	Comment
		<p>site in Redfern. The southern elevation of the building will provide a canvas for creativity and present an opportunity to enhance visual interest on the site's interface with the James Street Reserve and Community Garden.</p> <p>The Preliminary Public Art Plan nominates the following public art opportunities:</p> <ul style="list-style-type: none"> • sculptural attachments to the southern lobby entrance. • sculptural attachment fixed to the entry column to the neighbourhood supermarket entry on Marriott Street. • graphic paint treatments to the southern elevation at the ground floor facing the James Street Reserve and Community Garden. • large-scale graphic paint treatment to the northern entry escalator wall accessed via Marriott Street (surface area of approximately 141 square metres). <p>The proposal meets the objectives of Section 3.1.5 of Sydney DCP 2012, which seeks to improve the quality, cohesion, and integration of public artworks in private developments. The proposed artworks will enhance the richness of the locality and pedestrian experience along Marriott Street and the James Street Reserve given its highly accessible location.</p> <p>Appropriate conditions are recommended to ensure public art will be implemented in accordance with the Preliminary Public Art Plan.</p>
<p>3.2. Defining the Public Domain</p> <p>3.2.1 Improving the public domain</p>	Yes	<p>The proposed development has been designed to positively address the public domain. The proposal does not impede on any significant views from the public</p>

Provision	Compliance	Comment
3.2.1.1 Sunlight to publicly accessible spaces		<p>domain to any highly utilised public places or parks.</p> <p>Section 3.2.1.1 of Sydney DCP 2012 requires overshadowing effects of new buildings on publicly accessible open space are to be minimised between the hours of 9.00am to 3.00pm at mid-winter (21 June).</p> <p>As discussed under the heading 'Amendments', the proposal has been subject to numerous amendments to minimise overshadowing to the James Street Reserve Community Garden and Reserve.</p> <p>The proposal, as amended, will maintain solar access to approximately half the area of the Community Garden for 3.5 hours between 11.30am to 3.00pm at mid-winter.</p> <p>The revised proposal provides an improved outcome compared to the original scheme which maintained approximately 2 hours of solar access to half of the Community Garden between 1.00pm to 3.00pm.</p> <p>Refer to further details and assessment under the 'Discussion' heading below.</p>
3.2.3 Active frontages	Yes	<p>The site's Cleveland Street and Marriott Street frontages are nominated as Category 1 active frontages.</p> <p>In accordance with this provision, over 80% of the Cleveland Street frontage is provided as an active frontage. The retail tenancies on the ground floor will comprise transparent glazing with a predominately unobstructed view from the adjacent footpath to contribute to the liveliness and vitality of Cleveland Street.</p> <p>The Marriott Street frontage is considered the site's secondary frontage. Activation is limited on this frontage due to the provision of the required site servicing, plant, and the vehicular access driveway. The degree of activation achieved on this frontage is by retail tenancy 3 and the entry to the</p>

Provision	Compliance	Comment
		neighbourhood supermarket at the south-east corner of the site is therefore considered acceptable.
3.2.4 Footpath awnings	Partial compliance	<p>A continuous awning is required along Cleveland and Marriott Streets as identified on the Footpath Awnings and Colonnade Map.</p> <p>The awning has a light weight form and appearance, and is generally in keeping with Section 3.2.4 of Sydney DCP 2012, as it:</p> <ul style="list-style-type: none"> • Provides a continuous awning along the extent of the site to Cleveland, Marriott and the James Street Reserve and maximises weather protection. • Has a maximum height of 3.58m above the Cleveland Street and James Street Reserve footpath. While the awning along Marriott Street exceeds the maximum awning height by approximately 1m, it is considered acceptable having regard to the slope of the site, continuous expression around three site frontages, and alignment the first-floor datum of the commercial building. • Provides a compliant width of 2m to Cleveland Street and 2.22m to the James Street Reserve. The reduced awning width of 1.22m to Marriott Street is acceptable given the narrow width of the footpath. • The awning is sufficiently setback (1.57m) from the existing light pole and existing street trees on Cleveland Street. • The submitted drawings confirm that gutters and downpipes will be concealed within the ground floor frontage of the building and will not be visible from the public domain. <p>Council's Urban Design and Heritage Specialists advised the awning is</p>

Provision	Compliance	Comment
		<p>acceptable, subject to recommended conditions.</p> <p>Appropriate conditions are recommended to ensure the provision of under awning lighting is in accordance with relevant Australian Standards.</p>
3.2.7 Reflectivity	Yes	A condition is recommended to ensure that the light reflectivity of the glazing will not exceed 20%.
3.2.8 External lighting	Yes	<p>The proposal does not include any external lighting.</p> <p>A condition is recommended to require a separate application to seek any external lighting.</p>
3.4 Hierarchy of Centres, City South	Yes	<p>Section 3.4 of Sydney DCP 2012 seeks to establish and maintain a viable and vibrant hierarchy of centres in the City South area, as well as ensure that retail development in the City South area does not have an adverse impact on one or more centres.</p> <p>The site is located at the northern extent of the Green Square Town Centre Primary Trade Area.</p> <p>The proposal will facilitate minor retail development and will not adversely impact the viability or economic role of the planned centres. The proposed retail tenancies will achieve a positive net community benefit, providing convenient shopping opportunities within walking distance of homes and workplaces.</p>
3.5 Urban Ecology	Yes	<p>The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.</p> <p>The proposal, as amended, includes a green roof coupled with solar panels (biosolar green roof) and improves the local urban ecology and diversity of locally indigenous flora and fauna species in accordance with Section 3.5 of Sydney DCP 2012.</p>

Provision	Compliance	Comment
		<p>Council's Landscape Specialist advises the revised landscape package prepared Black Beetle Landscape Architecture and Design is adequately detailed and acceptable but advised the spacing between the photovoltaic cells may need to be adjusted to allow adequate space for maintenance. It is noted that the layout of the array of photovoltaic cells are only indicatively shown on the landscape plans. The landscape plans (Drawing labelled Garden Profile 01) also suggests that the photovoltaic cells will be angled to be accommodate planting underneath.</p> <p>Conditions are recommended to ensure the final layout and angle of solar panels will provide sufficient space for maintenance and planting underneath.</p>
3.6 Ecologically Sustainable Development (ESD)	Yes	<p>A Section J Assessment Report and Design for Environmental Performance Report prepared by IGS Pty Ltd accompanies the application.</p> <p>The proposal, as amended, has been designed to reduce the need for active heating and cooling. The proposed development incorporates passive design measures and shading devices to the north and eastern facades of the building. The proposal meets the requirements of Section J of the BCA.</p> <p>The proposed development includes on-site renewable energy generation through the provision of photovoltaic panels on the roof (72 kilowatt peak capacity) and a heat pump systems.</p> <p>Council's Environmental Sustainability Specialist advises the proposal is acceptable subject to recommended conditions. Conditions are recommended to:</p> <ul style="list-style-type: none"> • require the installation of water efficient fittings and energy efficient lighting. • require compliance with the Design for Environmental Performance Report submitted with the application to ensure that

Provision	Compliance	Comment
		all ESD commitments are carried through to the certification and construction phases.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under Clause 5.21 of Sydney LEP above.
3.8 Subdivision, Strata Subdivision and Consolidation	Not applicable	<p>No subdivision is proposed by the subject application.</p> <p>The application was referred to Council's Specialist Surveyor, who advised the development is acceptable, subject to recommended conditions included in Attachment A.</p> <p>The applicant submits the western wall of the development will be independently supported and will not rely upon or compromise the structural integrity of the existing party wall at 373 Cleveland Street. As discussed above, appropriate conditions are included in Attachment A to protect the structural integrity of the existing party wall of the adjoining dwelling at 373 Cleveland Street.</p>
3.9 Heritage 3.9.13 Excavation in the vicinity of heritage items and in heritage conservation areas.	Yes	<p>The proposed development seeks to replace the existing detracting car wash building and replace it with a sympathetically designed commercial development.</p> <p>The development will enhance the significance and character of the Baptist Street heritage conservation area and will not have a detrimental impact on the heritage significance of contributory buildings or nearby local heritage items.</p> <p>Refer to assessment under Section 5.10 of Sydney LEP 2012 above.</p>
3.11 Transport and Parking	Yes	<p>The development includes 12 car parking spaces within the basement level for staff, which complies with Clause 7.6 and 7.7 of Sydney LEP 2012.</p> <p>The Traffic Impact Statement and addendum Traffic letter prepared by Traffix has been reviewed by the City's Transport and Access Unit and is</p>

Provision	Compliance	Comment
		<p>acceptable. The proposed loading dock will provide adequate vehicular access for a 6.4m Small Rigid Vehicle (SRV) and B99 vehicle.</p> <p>The configuration of the basement parking and waste management facilities has been reviewed by the City's Access and Transport and Cleansing and Waste Units and is considered satisfactory, subject to recommended conditions.</p> <p>Appropriate traffic related conditions are recommended in Attachment A including provision of a Transport Access Guide to promote sustainable transport options for customers, as well as appropriate management of the loading dock.</p> <p>The proposed development complies with Section 3.11 of Sydney DCP 2012.</p>
3.11.3 Bike parking and associated facilities	Acceptable	<p>Section 3.11.3 of Sydney DCP 2012 requires a minimum of 18 bicycle spaces for the proposed commercial premises (office and shops), with a breakdown of 12 visitor spaces and 6 staff spaces.</p> <p>For office premises, a rate of 1 space per 150 square metres of GFA for employees and 1 space per 400 square metres is required for visitors. For shops, a rate of 1 space per 250 square metres of GFA for employees and 2 plus 1 per 100 square metres of GFA is required for customers.</p> <p>The proposal provides total of 20 bicycle spaces (14 staff and 6 visitor spaces).</p> <p>The site is highly accessible and located within walking distance to multiple public transport options including light rail services (approximately 500 metres to the Surry Hills light rail station) and bus services along Cleveland Street (approximately 50 metres to the Cleveland Street at Marriott Street bus stop).</p> <p>Given the highly accessible location of the site and additional bicycle parking spaces provided, the proposed breakdown in visitor and staff parking spaces is considered acceptable.</p>

Provision	Compliance	Comment
3.11.6 Service vehicle parking	No but assessed as acceptable	<p>Section 3.11.6 and Schedule 7.8.1 of Sydney DCP 2012 requires 4 service vehicle parking spaces to be provided based on the proposed commercial office and ground floor retail uses.</p> <p>The proposal provides two service vehicle spaces that can accommodate vehicles up to and including a 6.4 metre SRV and a B99 vehicle.</p> <p>The proposed varied number of service vehicles is considered acceptable in this instance for the following reasons:</p> <ul style="list-style-type: none"> • given the constraints of the site, including flooding mitigation requirements and proximity to Cleveland Street which is a classified road. • the submitted swept path analysis demonstrates adequate movement of both the B99 and SRV entering and exiting the site in a forward direction which is supported by Council's Transport and Access Unit. • no objections were raised in relation to the reduced number of service parking spaces by Council's Transport and Access Unit. Subject to conditions, the proposed office and retail premises are considered capable of being adequately serviced by the proposed number of spaces. • Council's Cleansing and Waste Unit advised that the proposed servicing arrangements within the site are satisfactory. • despite the numerical non-compliance, the proposal generally satisfies Section 3.11.6 where service spaces are provided completely within the boundary of the site, clearly designated for service vehicle spaces only (not used for any other purpose such

Provision	Compliance	Comment
		<p>as the storage of goods/ equipment).</p> <ul style="list-style-type: none"> having regard to the scale of the development and provision of active ground floor retail uses, in lieu of additional service parking spaces, which contributes towards the public domain and activation of the precinct.
3.12 Accessible Design	Yes	<p>The application is accompanied with an Accessibility Report prepared by CityPlan.</p> <p>The Accessibility Report confirms the proposal can comply with accessibility requirements under the BCA, DDA and Section 3.12 of Sydney DCP 2012.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>Section 3.113 of Sydney DCP 2012 seeks to ensure a safe environment and minimise opportunities for criminal and anti-social behaviour associated with developments.</p> <p>The proposal includes ground level retail uses and provides an active street frontage to Cleveland and Marriott Streets. The development will enhance passive surveillance to the public domain and provide an improved level of safety to James Street Reserve and Community Garden, compared to the existing site condition as the development activates the southern elevation of the site to promote surveillance from the first-floor windows and second floor terrace and a new entry at the south-east corner of the development (at the intersection of Marriott Street and the Reserve). The design of the upper levels of the development will also increase opportunities for surveillance to the public domain. The development is expected to increase activity on the site during the day and evening, providing new retail uses on the ground floor and a neighbourhood supermarket at the first floor. The external areas and entry points to the building has been designed to minimise blind-corners and recesses.</p>

Provision	Compliance	Comment
		<p>The building entries are clearly visible, unobstructed, and easily identifiable from the street.</p> <p>The proposed development provides adequate passive surveillance and is generally designed in accordance with the CPTED principles in keeping with Section 3.13 of Sydney DCP 2012.</p>
3.14 Waste	Yes	<p>The submitted Waste Management Plan prepared by Ratio states that waste will be collected from the loading dock by a private commercial waste contractor. The design of the loading dock accommodates a waste collection vehicle of 6.4m, and waste contractors will wheel the bins between the bin room and service space.</p> <p>Council's Waste Management Unit has reviewed the proposal and raised no objections subject to recommended conditions. The proposed waste storage area at the ground floor is of a sufficient area to accommodate waste generated by the proposed retail, neighbourhood supermarket and office uses. The waste storage room is conveniently located and within proximity to the waste collection area and is consistent with the City's Guidelines for Waste Management in New Developments.</p> <p>Appropriate conditions are recommended to require the submission of a Demolition and Construction Waste Management Plan, and to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>
3.15 Late Night Trading Management	Yes	<p>The site is located opposite a Local Centre Area (occupied by Surry Hills Village), it is not identified as a Late Night Trading Management Area.</p> <p>The proposal seeks to deliver a retail uses at the ground floor and a new neighbourhood supermarket at the first-floor level of the building (subject to separate applications).</p>

Provision	Compliance	Comment
		<p>The indicative retail premises (food and drink uses) are considered as Category B premises. The neighbourhood supermarket is considered as a Category C premise pursuant to Section 3.15 of Sydney DCP 2012.</p> <p>Section 3.15.4 permits the following base hours of operation:</p> <ul style="list-style-type: none"> • Category B - between 7.00am to 10.00pm • Category C - between 7.00am to 12.00 midnight, subject to an assessment of the matters for consideration under Section 3.15.3. <p>The proposal is accompanied by an Acoustic Report prepared by Acoustic Logic which includes an assessment of the indicative retail, neighbourhood supermarket, office premises and plant areas. The report has been reviewed by Council's Environmental Health Unit and is considered acceptable, subject to recommended conditions.</p> <p>The application is not accompanied by a Plan of Management and there is limited information at this stage in relation to the specific trading hours and operational management of each of the premises, as their respective operators are yet to be secured.</p> <p>Conditions are recommended to:</p> <ul style="list-style-type: none"> • require compliance with the recommendations of the Acoustic Report for the indicative uses in relation to background music levels and glazing performance to the southern facade. • Provide the ground floor retail tenancies base trading hours of between 7.00am to 10.00pm. The future fit-out and specific use of

Provision	Compliance	Comment
		<p>these premises are to be subject to separate future applications.</p> <ul style="list-style-type: none"> • require the specific use, operation, hours and fit-out of the neighbourhood supermarket to be subject to a separate future development application, given the limited information does not enable a comprehensive assessment against the matters of consideration under Section 3.15.3. • ensure deliveries and waste collections will not occur between the hours of 10.00pm and 6.00am daily, to protect the surrounding residents from noise disturbance.
<p>3.16 Signage and Advertising 3.16.1 Signage Strategy 3.16.3 General requirements for signage</p>	<p>Yes, subject to conditions</p>	<p>As the proposed development contains more than four business premises and is located within a heritage conservation area, a signage strategy is required for the site in accordance with Section 3.16.1 of Sydney DCP 2012.</p> <p>A total of nine business identification signs are proposed, comprising two under awning signs and seven top hamper signs. While the location and number of signs are supported, the submitted signage plans do not include details on the proposed materiality of the signs or denote which signs are designated to each tenancy.</p> <p>A condition is recommended to require further details to be submitted to and approved by Council, prior to any Occupation Certificate being issued for the development.</p>
<p>3.16.4 Illuminated signage</p>	<p>Yes</p>	<p>The future top hamper and under awning signs will be illuminated.</p> <p>A condition is recommended to ensure the illumination of the signage does not result in unacceptable glare.</p>

Provision	Compliance	Comment
3.16.6 Business identification signs and on-premises advertisements 3.16.6.1 General requirements 3.16.6.5 Under awning signs 3.16.6.8 Window signs and top hamper signs	Yes	<p>The proposed business identification signs are located at the entry of each tenancy and are appropriately integrated with the architectural design of the building. The proposed signs do not result in visual clutter to the building elevation along Cleveland or Marriott Street in keeping with Section 3.16.6 of Sydney DCP 2012.</p> <p>The top hamper signs will not exceed a maximum height of 3.5 metres above existing ground level (3.05 metres proposed).</p> <p>The proposed height of the under awning signs measured from the footpath to the underside of the signs comply with the minimum of height of 2.6 metres measured from the footpath (2.6 metres proposed).</p> <p>The location and dimensions of the proposed under awning and top hamper signs comply with the requirements of Section 3.16.6.5 and 3.16.6.8 of Sydney DCP 2012.</p> <p>An appropriate condition is recommended to ensure the business identification signage are not erected prior to the fit-out of the tenancy to which it relates.</p>
3.17 Contamination	Yes	Refer to assessment under the SEPP (Resilience and Hazards) 2021 above.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.1 Building height		
4.2.1.1 Height in storeys and street frontage height in storeys	Yes	<p>The site is permitted a maximum building height of 3-storeys.</p> <p>The proposed development is 3-storeys in height and complies.</p>

Provision	Compliance	Comment
4.2.1.2 Floor to ceiling heights and floor to floor heights	Yes	<p>The proposal complies with the minimum floor to floor heights stipulated in Section 4.2.1.2 of Sydney DCP 2012.</p> <p>A minimum floor to floor height of 4.5 metres is provided on the ground floor, 4.2 metres on the first floor and 3.7 metres for the second floor.</p>
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	<p>Section 4.2.3.1 of Sydney DCP 2012 requires neighbouring developments to achieve 2 hours of direct sunlight between 9.00am and 3.00pm at mid-winter to at least 1 square metre of living room windows and a minimum 50% of the required minimum area of private open space (8 square metres). 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 the minimum 8 square metres of private open space.</p> <p>The amended proposal is accompanied by a shadow analysis and sun eye diagrams at half hourly intervals prepared by Conrad Gargett Architects. The diagrams illustrate a comparison of overshadowing impacts from a permissible envelope (building height of 12m determined by Clause 4.3 of Sydney LEP 2012) with that currently proposed.</p> <p>The analysis identifies that the proposal results in below overshadowing impacts:</p> <ul style="list-style-type: none"> • 1 hour between 9.00am to 10.00am to the private open space and living areas of No. 2 Marriott Street; • half an hour between 9.00am to 9.30am to the private open space areas of Nos. 371 Cleveland

Provision	Compliance	Comment
		<p>Street and 4 - 6 Marriott Street; and</p> <ul style="list-style-type: none"> 1 hour between 9.00am to 10.00am to the private open space and living area of No. 373 Cleveland Street. <p>The proposal does not create any additional overshadowing impacts to Nos. 371-373 Cleveland Street or 4-6 Marriott Street which are already overshadowed during this time due to existing vegetation, dividing fence, narrow lot width and site orientation.</p> <p>The development will maintain 2.5 hours of direct solar access to 8 square metres of the private open space area and habitable rooms of No. 2 Marriott Street between 12.30pm and 3.00pm.</p> <p>The resulting overshadowing impact to the neighbouring terraces complies with Section 4.2.3.1(2) and is acceptable.</p> <p>Refer to further assessment under the 'Discussion' and 'Clause 4.6 variations to height of building' headings below.</p>
4.2.3.4 Design features to manage solar access	Yes	<p>The proposal, as amended, includes vertical and horizontal shading mullions which are integrated into the design of the north and eastern facades. The shading devices will maximise passive solar shading performance to the glazing and reduce the building's reliance on mechanical heating/ cooling.</p>
4.2.3.5 Landscaping	Yes, subject to conditions	<p>As noted above, the proposal is accompanied by a Landscape package prepared by Black Beetle Landscape Architecture and Design which includes details on the proposed species of plants, garden profile, drainage details and soil depth. The proposal meets the requirements of Section 4.2.3.5 of Sydney DCP 2012.</p>

Provision	Compliance	Comment
		Refer to further details in Section 3.5 of Sydney DCP 2012 above.
4.2.3.6 Deep Soil	No but assessed as acceptable	<p>A minimum deep soil area of 10% of the site area is required (96 square metres).</p> <p>The proposal does not include the provision of any deep soil areas. The site is located within an urbanised precinct where the ground floor of buildings is aligned with the boundary of the site. There are limited opportunities for the provision of deep soil in this instance given the corner position of the site (fronting a classified road), relatively small site area, footprint and basement requirements for the development which occupies the entirety of the site.</p> <p>The proposal provides a biosolar green roof in lieu of the deep soil area which is considered acceptable as it provides an improved outcome than currently offered by the existing car wash facility. The green roof contributes towards the greening of the urban environment and diversity of locally indigenous flora and fauna species within the locality.</p>
4.2.4 Fine grain, architectural diversity and articulation	Yes	<p>The proposed development provides an acceptable built form with fine grain architectural character. The revised scale, modulation and articulation of the building provides an appropriate response to its immediate context and locality within the Baptist Street heritage conservation area. The expression of the facade reflects the functions within the building.</p> <p>The proposal does not exceed the maximum street frontage of 65m stipulated in Section 4.2.4 of Sydney DCP 2012. The building is designed with a two-storey podium with a masonry grid that is proportioned to reflect the fine grain vertical pattern of the immediately adjoining contributory terrace row. The</p>

Provision	Compliance	Comment
		<p>top floor of the building is setback from the street wall, to achieve a recessive termination for the top of the building. The ground floor plane achieves visual and pedestrian permeability with a through site lobby linking Cleveland Street to the James Street Reserve.</p>
4.2.6 Waste and recycling Management	Yes	Refer to discussion under Section 3.14 of Sydney DCP 2012 above.
4.2.9 Non-residential development in MU1 Mixed Use zone	Yes	<p>The objectives of Section 4.2.9 of Sydney DCP 2012 stipulates that non-residential development must be compatible with, and does not detract from, the amenity of residential development, and ensure that any impacts generated by new development are adequately managed to preserve the quality of life for residents in the area.</p> <p>The outdoor terrace of the proposed office on the second floor does not result in any overlooking to the private open space areas of the surrounding residential dwellings, given its setback from the parapet of the lower levels and screening by planters.</p> <p>The proposal, as amended, will not result in any significant adverse impacts with respect to visual privacy, vibration, reflectivity or overshadowing to the nearby residential developments as assessed elsewhere in this report.</p> <p>Appropriate conditions are recommended to ensure that the development will maintain the amenity of the public domain and residential developments in relation to waste collection, traffic, noise and operation of the retail and neighbourhood supermarket uses. Refer to details in Section 3.11, 3.14 and 3.15 of Sydney DCP 2012 above.</p>

Discussion

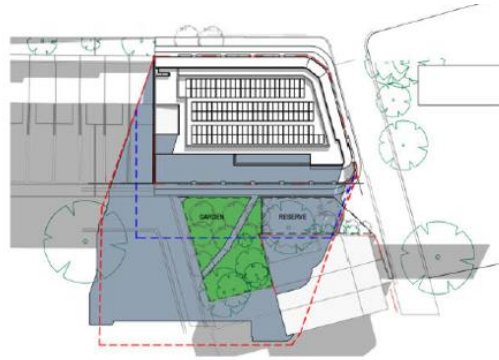
Solar Access to the James Street Reserve Community Garden

58. Section 3.2.1 of Sydney DCP 2012 stipulates new development must enhance the public domain by ensuring adequate sun access to publicly accessible spaces and protecting significant views from public places. Section 3.2.1.1 of Sydney DCP 2012 requires overshadowing effects of new buildings on publicly accessible open space to be minimised between the hours of 9.00am to 3.00pm on 21 June.
59. The existing Community Garden is dissected into two by a pedestrian walkway, as shown in Figure 37. The northern part of the garden (referred to as the northern garden hereafter) is more productive in comparison to the southern part of the garden (southern garden) due to its aspect and location of existing mature trees.

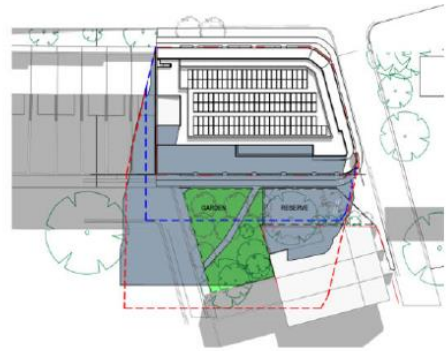


Figure 37: James Street Reserve Community Garden (11 November 2023)

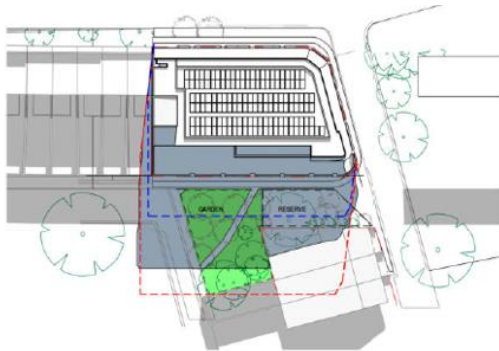
60. The overshadowing impact resulting from the proposed development, as amended (on 22 May 2024), is shown in the accompanying half hourly shadow diagrams reproduced below at Figure 38. The diagrams identify the existing shadows created by the existing car wash outlined in blue, the proposed development hatched in grey and shadows resulting from a 12m building envelope outlined in red. Half hourly sun eye diagrams are also provided at Attachment D.



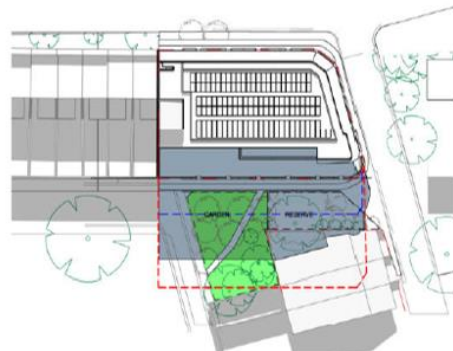
Shedbus (Winter) 23 June 9:00am
1:50



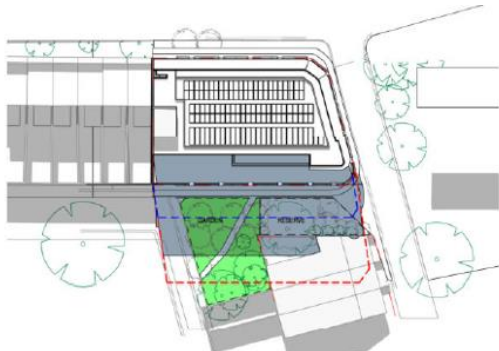
Shedbus (Winter) 23 June 9:30am
1:50



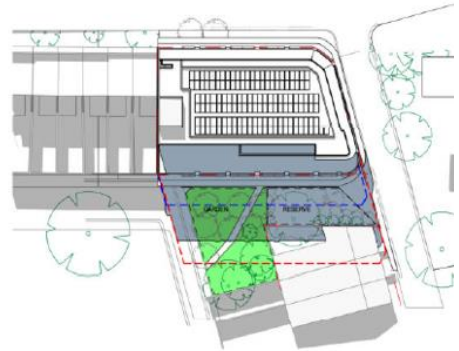
Shedbus (Winter) 23 June 10:00am
1:50



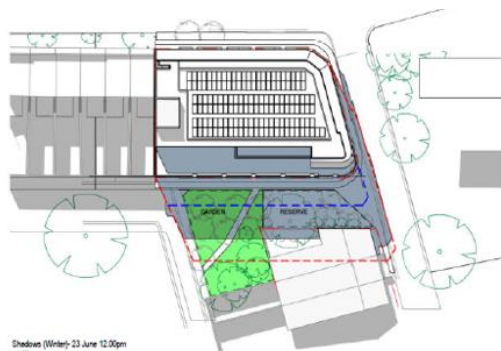
Shedbus (Winter) 23 June 10:30am
1:50



Shedbus (Winter) 23 June 11:00am
1:50



Shedbus (Winter) 23 June 11:30am
1:50



Shedbus (Winter) 23 June 12:00pm
1:50



Shedbus (Winter) 23 June 12:30pm
1:50

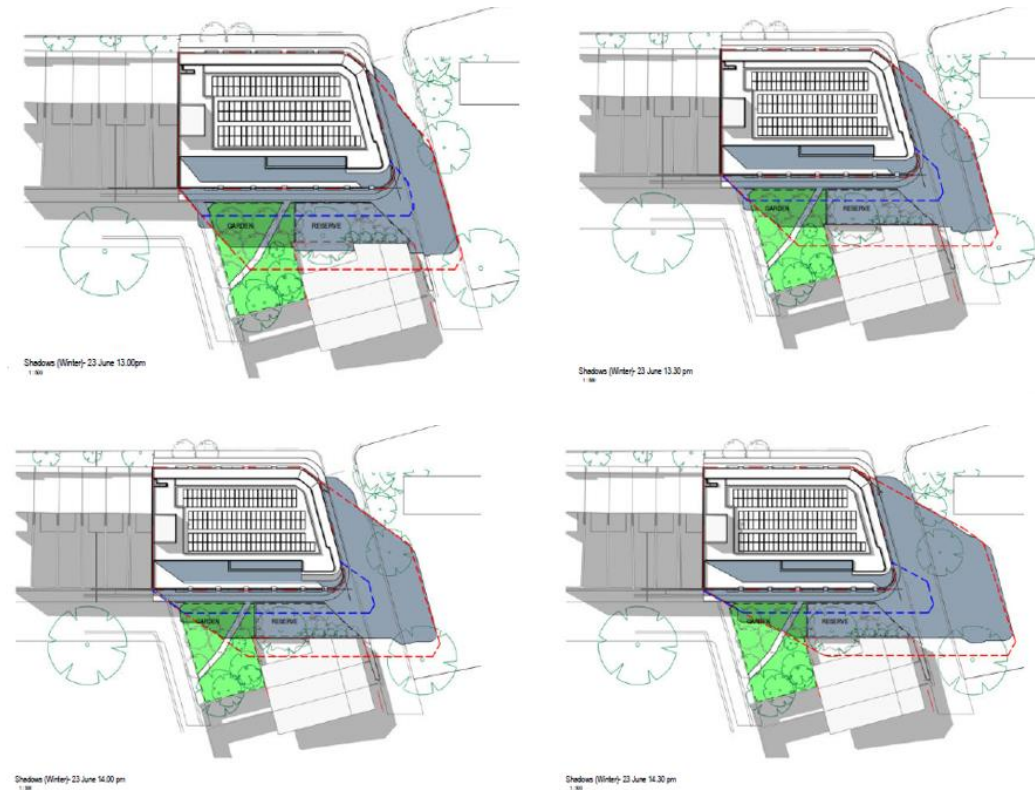


Figure 38: Shadow diagrams

61. The shadow diagrams demonstrate:
- Half of the northern garden is overshadowed by the existing car wash between 9.00am to 10.00am and a third is overshadowed between 10.00am to 12.00pm.
 - No sunlight will be received to the northern garden between 9.00am to 10.00am.
 - Approximately a quarter of the northern garden will receive solar access between 11.30am to 12.00pm. Approximately half of the northern garden will receive sunlight between 12.00pm and 1.00pm. The majority of the northern garden will receive sunlight between 1.00pm to 3.00pm.
 - The proposal will maintain 3.5 hours of solar access to approximately half of the entire community garden between 11.30am to 3.00pm at mid-winter.
 - The development provides an improved outcome when compared to a building envelope with a height of 12m (excluding articulation and setbacks).
62. It would be unreasonable to require the new development on this site (where the permissible building height is 12m) to maintain the existing level of solar access to the garden, as this would limit development to a single storey and would not achieve the objects of the Environmental Planning and Assessment Act 1979 in accordance with Clause 1.3(c) to promote the orderly and economic use and development of land.
63. The original scheme (as lodged) overshadowed the majority of the garden until 1.30pm. The elements of the original scheme which contributed to this overshadowing impact was the generous level 1 floor to floor height (4.5m), extruded parapet to the

non-trafficable roof on the southern elevation, western blade wall at level 2, and the mechanical plant (refer to Figure 39).

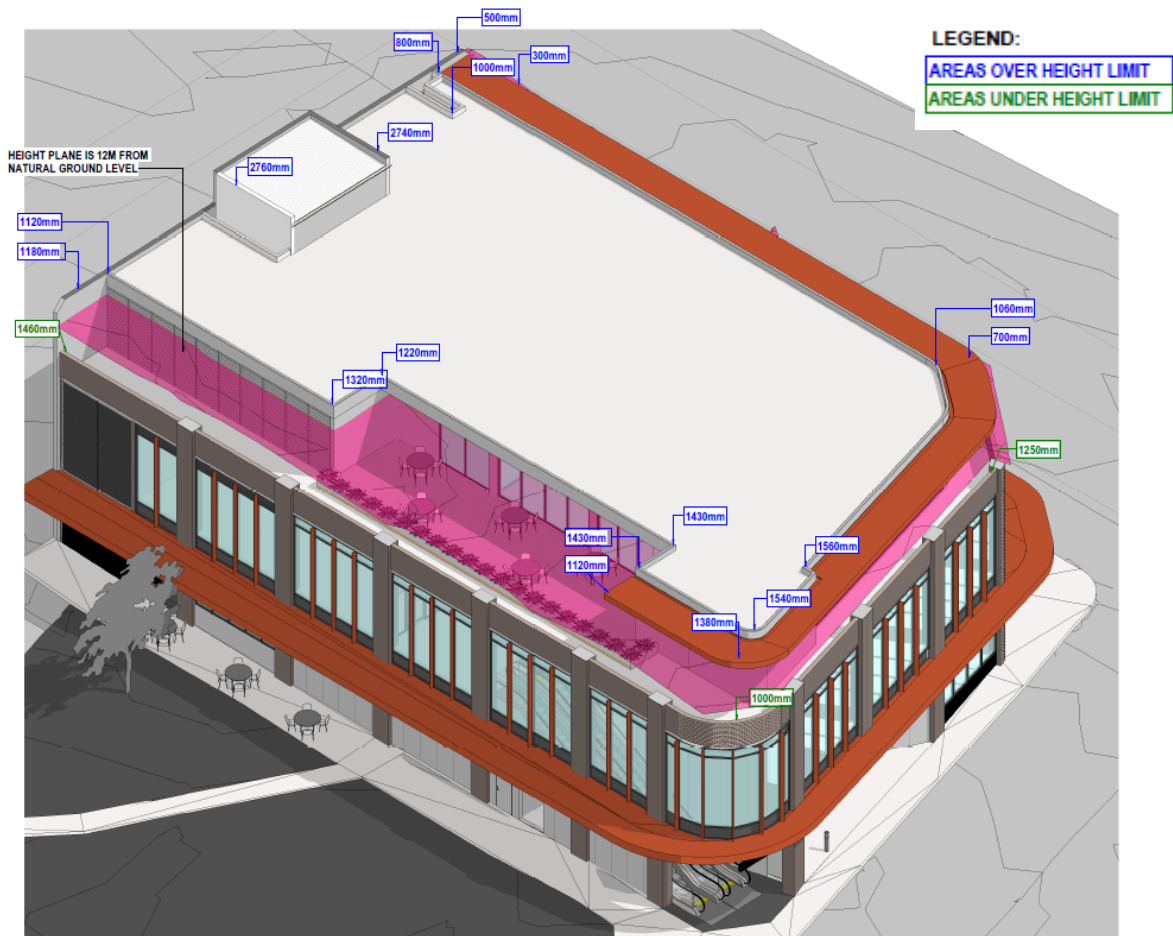


Figure 39: Original proposal dated 2 August 2023

64. The proposal has since been revised to reduce the building bulk at the south-west corner, reduce the level 1 floor to floor height by 0.3m (4.2m), and remove all of the above elements included in the original scheme (refer to Figure 42). The revised design provides an improved outcome compared to the original scheme, achieving sunlight to approximately half of the garden between 11.30am to 1.30pm.
65. The proposal, as amended, is considered to provide an acceptable level of solar access to ensure the ongoing viability of the Community Garden. The site is located immediately to the north of the garden and as such a degree of overshadowing to the south is unavoidable. The revised development maintains solar access to the approximately half of the northern garden for three hours between 12.00pm to 3.00pm. The revised scheme has minimised the overshadowing impacts to the publicly accessible open space to an acceptable level and is considered to meet the objectives of Section 3.2.1.1 of Sydney DCP 2012.

Clause 4.6 Request to Vary a Development Standard - Height of Buildings

66. The site is subject to a maximum height of buildings control of 12 metres. The proposed development has a maximum building height of 14.3 metres, which equates to a variation of 19.1% (2.3 metres). The elements that breach the height of buildings

development standard includes lift overruns, fire stairs, level 2 roof and mechanical plant.

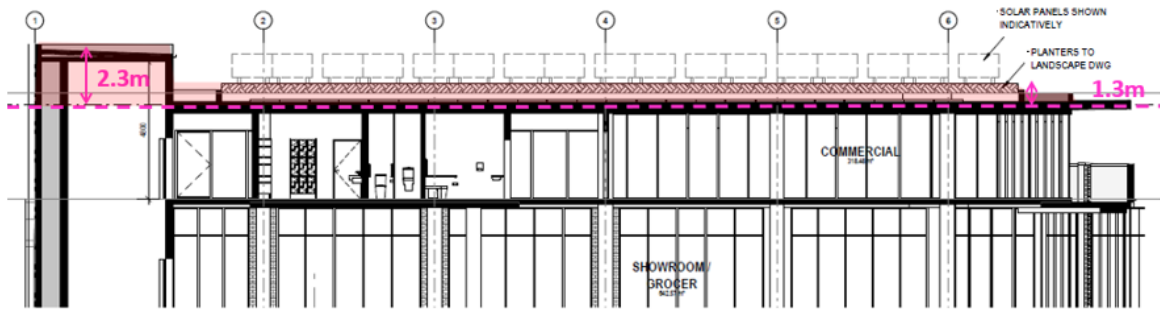


Figure 40: Section A - Area of height exceedance indicated in red

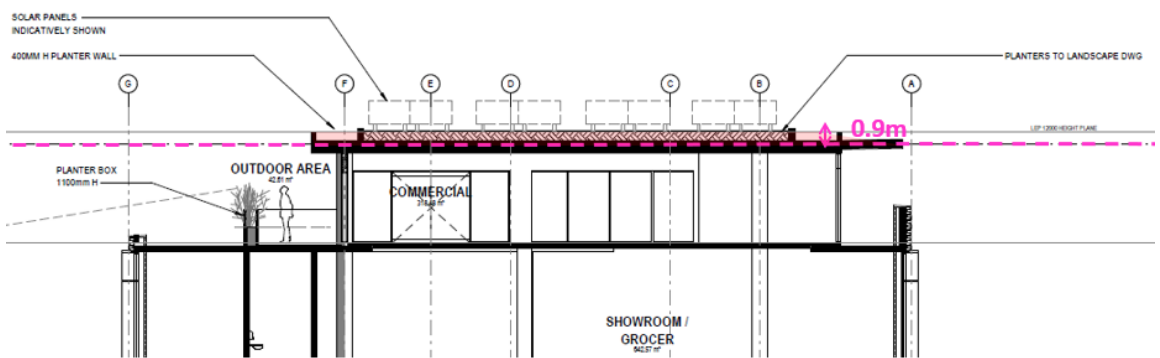


Figure 41: Section B - Area of height exceedance indicated in red

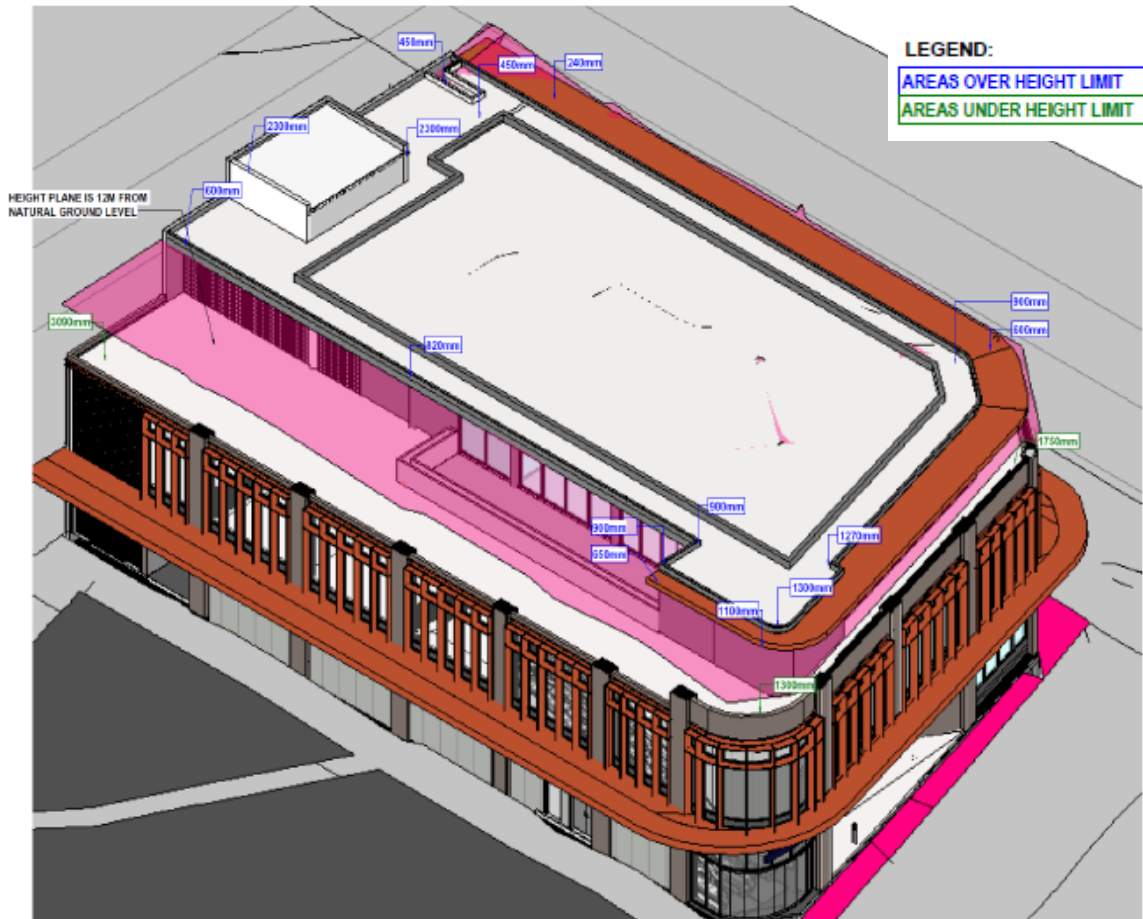


Figure 42: Height plane drawing showing areas above the height control annotated in blue and elements below annotated in green

67. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;
 - That there are sufficient environmental planning grounds to justify contravening the standard;
 - The proposed development will be consistent with the objectives of the zone; and
 - The proposed development will be consistent with the objectives of the standard.

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

68. The applicant seeks to justify the contravention of the height of buildings development standard on the following basis:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
- (i) The applicant's statement refers to the first of the five tests established in *Wehbe v Pittwater Council (2007) NSW LEC 827* to demonstrate that compliance with the numerical standard is unreasonable or unnecessary. The test seeks to demonstrate that the objectives of the development standard are achieved notwithstanding non-compliance with the numerical standard. The applicant's justification against the objectives of the height of buildings development standard is provided in (d) below.
 - (ii) The applicant's statement also refers to the fourth test to demonstrate that the development standard has been virtually abandoned or destroyed by Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable. The applicant notes that Council has adopted a relatively flexible approach to the implementation of the height control in circumstances where the objectives of the control are achieved.
- (b) That there are sufficient environmental planning grounds to justify contravening the standard:
- (i) The 12m height control for the subject site under Clause 4.3 of Sydney LEP 2012 is intended to work in tandem with a 3-storey height control in the Sydney DCP 2012. However, the 12m height control in the LEP assumes a shop-top form of development which includes upper-level residential uses which have reduced floor to floor requirement when compared with commercial uses on the upper floors.
 - (ii) The site is located adjacent to a busy classified road (Cleveland Street) and residential development does not represent an optimal design outcome due to the adverse amenity outcomes for more sensitive residential use. It is preferable to provide an entirely commercial building, however, this requires higher floor to floor heights which challenges the 12m height control.
 - (iii) The proposed development has been designed to mitigate the impact of the overall height of the development. The proposal has been designed with an expressed two-storey base with masonry grid facade, and the top level is setback from all edges of the building. The expression of the top floor is detailed with glazed external walls with fine window detailing to three frontages, and a light weight projecting roof element to float above the base of the building. This achieves a recessive termination for the top of the building.
 - (iv) The setback of the top floor, which is the element that exceeds the height control, is such that the proposed development does not result in any meaningful difference in shadow when compared to the shadow cast by a compliant building envelope on the site.
 - (v) The majority of the components which breach the height control will not be dominant when viewed from the public domain, or the ground floor plane of the site.

- (vi) The lift overrun which has the greatest extent of breach is well setback within the site with essentially no impact. Accordingly, the proposed areas of variation to the height control do not result in any adverse impact to adjacent properties.
- (vii) The proposed variation allows for the most appropriate use of land, which is also the most efficient and economic use of the land without adversely impacting on the amenity of adjacent sites. Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public in the particular circumstance of this site and this proposal but would only serve to encourage the introduction of residential use on the upper levels of the building.
- (c) The proposed development will be consistent with the objectives of the zone:
- (i) The applicant has provided justification in their written statement that the proposed development will be consistent with the objectives of the MU1 Mixed Use zone:
- ***To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.***
 - (i) The development will support the ongoing use of the site for commercial premises in an ideal development which will contribute positively to the vibrancy of the location.
 - ***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.***
 - (ii) The proposed development maximises active frontages and fine grain retail uses to Cleveland Street.
 - ***To minimise conflict between land uses within this zone and land uses within adjoining zones.***
 - (iii) The proposal has been designed to minimise conflict with nearby residential uses by reducing shadow impacts when compared with a strictly compliant height. The development includes a greater setback at the top floor from the southern edge of the building to mitigate privacy impacts.
 - ***To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.***
 - (iv) The proposed development provides retail uses on the ground floor of the building.
 - ***To ensure land uses support the viability of nearby centres.***
 - (v) The proposal will support rather than detract from the viability of the nearby centres and will ensure the continuation of employment generating uses on the site.

- ***To integrate suitable business, office, residential, retail and other land uses in accessible locations that maximise public transport patronage and encourage walking and cycling.***
- (vi) The site is well located to encourage walking and cycling. End of Journey facilities are integrated to the design of the development that will encourage users to walk and cycle.
- (d) The proposed development will be consistent with the relevant objectives of the standard:
- (a) ***With regard to objective 4.3(1)(a) to ensure the height of development is appropriate to the condition of the site and its context:***
- (i) The proposal is 3-storeys in height as anticipated by the Sydney DCP 2012. The proposal is therefore broadly appropriate to the condition of the site and its context. However, due to the commercial uses in the building instead of residential, the required floor to floor heights results in a minor variation to the height control.
 - (ii) To mitigate the impact of the height variation and to achieve a more appropriate contextual design response, the development is designed with a two-storey base with masonry grid which is proportioned as an interpretation of the fine grain vertical pattern of the immediately adjacent row of terraces. The top floor is setback from the levels below and proposed with a predominately glazed wall with fine window detailing and a lightweight projecting roof element to float above the base of the building. This achieves recessive termination for the top of the building.
 - (iii) The expressed scale of the street wall as 2 storeys is a sympathetic response to the context of the site.
- (b) ***With regard to objective 4.3(1)(b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas:***
- (i) The proposal is located within a heritage conservation area and the development provides a design response which specifically acknowledges the adjacent contributory items by providing a lower two-storey street wall which achieves an appropriate transition in scale between this new development and the context of the site.
- (c) ***With regard to objective 4.3(1)(c) to promote the sharing of views outside Central Sydney:***
- (i) The proposed development will not impact on any scenic or iconic views.
- (d) ***With regard to objective 4.3(1)(d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas:***
- (i) This objective is not applicable to the development as the site is not located within Central Sydney or the Green Square Town Centre.

(ii) ***With regard to objective 4.3(1)(e) in respect of Green Square:***

- (i) This objective is not applicable.

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

69. Development consent must not be granted unless the consent authority is satisfied that:
- (a) The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 3 of Clause 4.6 being that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the standard; and
 - (b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

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

70. The applicant has correctly referred to the test established by Preston CJ in *Wehbe v Pittwater* to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances of the case. Specifically, the applicant has addressed the first part of the test by demonstrating that the development meets the objectives of Clause 4.3, notwithstanding non-compliance with the numerical standard.
71. The proposal satisfies the relevant objectives of Clause 4.3 as follows:
- "To ensure the height of development is appropriate to the condition of the site and its context.
 - To ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas.
 - To promote the sharing of views outside Central Sydney"
72. The proposal appropriately responds to the existing and anticipated context of the area and presents a transitional building height with surrounding developments within the Baptist Street heritage conservation area as well as Waterloo and Redfern (Cleveland Street) special character area.
73. The written request outlines that the proposal achieves a more appropriate contextual design response and transition in scale between the subject development and surrounding developments. A two-storey podium is proposed with a street wall height of approximately 9.8m. The proposal complements the two-storey scale of the adjoining and nearby terraces to the west and south (fronting Marriott Street) and achieves consistency with the 9.9m street wall height of the Surry Hills Village to the east along Cleveland Street. The portion of the building that exceeds the height control is setback from the levels below to achieve a recessive termination for the top of the building and does not result in adverse impacts on any scenic or iconic views.
74. The proposal is consistent with the objectives of the MU1 Mixed Use zone and height development standard under Sydney LEP 2012 and is in the public interest. The area

of non-compliance is predominately confined to the roof, plant and services of the development and is negligible when viewed from the public domain. The proposal would facilitate the objectives of the zone that would not result in unacceptable environmental impacts to the neighbouring properties or public domain. The development will not unreasonably overshadow public accessible open space (as discussed under the heading 'Solar Access to the James Street Reserve Community Garden above).

75. Accordingly, the applicant has adequately demonstrated that strict compliance with the height development standard is considered unreasonable and unnecessary in the circumstances of the subject application. The Clause 4.6 variation request provides sufficient justification to warrant the variation to the height of building development standard.

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

76. The area breaching the 'height of buildings' development standard relates to elements contained at the roof level only, predominately confined to non-habitable structures that allow the building to function effectively and efficiently (lift overrun, mechanical plant, biosolar green roof, rooftop awning and parapet). The exceedance does not constitute a full habitable floor.
77. The applicant has noted that the site is located adjacent to a classified road and thus a sensitive land use such as residential development would not represent an optimal design outcome. A commercial development requires higher floor to floor heights (4.5m on ground and 3.6m on floors above) in comparison to residential development (minimum of 3.1m).
78. The development has been designed with a two-storey podium. The proposed second floor is setback from the Cleveland and Marriott Street frontages by approximately 2m. A greater setback of 6.8m measured to the rooftop mechanical plant and 3.5m to the outdoor terrace is provided to the south elevation to minimise overshadowing impacts to the James Street Reserve Community Garden. The setback of the second floor also reduces the visual impact of the bulk of the building and responds to the two-storey scale of the adjoining row of terraces (Nos. 363-373 Cleveland Street) within the Baptist Street heritage conservation area.
79. The proposal has been designed to minimise overshadowing impacts to publicly accessible open space in accordance with the requirements of Section 3.2.1.1 of Sydney DCP 2012 (as assessed under the heading 'Solar Access to the James Street Reserve Community Garden above). The setback of the mechanical plant, and reduced parapet height will maintain 3.5 hours of solar access to approximately half of the Community Garden between 11.30am to 3.00pm at mid-winter. The applicant's overshadowing analysis provides a comparison of shadows cast by the proposed development and that of a permissible 12m height building envelope. The proposed development delivers an improved outcome than that which would be achieved by a 12m envelope. The existing car wash overshadows approximately half of the northern part of the Community Garden between 9.00am to 10.00am, and approximately a third of the garden between 10.00am to 12.00pm. It is unreasonable for a new development to maintain the existing level of solar access as this would limit development to a single storey and would not promote the orderly development of land in accordance with the EP&A Act 1979. On balance, having regard to the constraints of the site and location of the publicly accessible space (located immediately south of the site), it is considered that the proposal will maintain an acceptable level of solar access to the Community Garden.

80. In light of the above, the proposal demonstrates that there are sufficient environmental planning grounds to justify contravention to the height development standard.

Is the development in the public interest?

81. The objectives of the height of buildings development standard relevant to the proposal include:
- (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.
82. The proposal is consistent with the relevant objectives of the MU1 Mixed Use zone as follows:
- (a) The development provides a mix of commercial and retail land uses that generate employment opportunities, which are consistent with the desired future character of the site and surrounds. The land uses are permissible within the zone.
 - (b) The development provides diverse and active retail street frontages to Cleveland and Marriott Streets. The proposed retail tenancies located on the ground floor to Cleveland Street will attract pedestrian traffic and contribute towards the vibrancy of the special character area.
 - (c) The proposal will support the viability of the nearby centres and will ensure the continuation of employment generating uses on the site.
 - (d) The site is located in an accessible location and within walking distance to multiple public transport options including light rail services (approximately 500m to the Surry Hills light rail station providing services to Central Train Station) and bus services along Cleveland Street (50m to the Marriott Street bus stop). The proposal integrates suitable business, office and retail uses and maximises public transport patronage, walking and cycling to and from the site.

Conclusion

83. 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 Local Environmental Plan 2012 and the proposed development would be in the public interest because it is consistent with the objectives of Clause 4.3 and the MU1 Mixed Use zone.

Consultation

Internal Referrals

84. The application was discussed with Council's;
- (a) Environmental Health Unit;

- (b) Heritage and Urban Design Unit;
- (c) Public Domain Unit;
- (d) Landscape Specialist;
- (e) Public Art Unit;
- (f) Environmental Projects Specialist;
- (g) Safe City;
- (h) Specialist Surveyor;
- (i) City Access and Transport Unit;
- (j) Tree Management Unit; and
- (k) Cleansing and Waste Unit.

85. The above units and officers advised that the amended proposal is acceptable subject to conditions including in Attachment A of this report.

External Referrals

Ausgrid

86. Pursuant to Section 2.48 of the SEPP (Transport and Infrastructure) 2021, the application was referred to Ausgrid for comment.
87. A response was received on 6 September 2023 and 21 March 2024 raising no objections to the revised proposal, subject to recommended conditions. These conditions are included in Attachment A.

Transport for NSW

88. Pursuant to Section 2.119 and 2.122 of the SEPP (Transport and infrastructure) 2021, the application was referred to Transport for NSW (TfNSW) for comment. The amended scheme was re-referred to TfNSW for comments on 21 March 2024.
89. Comments were provided on 12 September 2023 and 11 April 2024. Conditions of consent were recommended which are included in the Notice of Determination.

NSW Police

90. The application was referred to the NSW Police for comment on 22 August 2023. No response was received.

Advertising and Notification

91. In accordance with the City of Sydney Community Participation Plan 2023, the proposed development was notified for a period of 21 days between 16 August and 7 September 2023. As the on-site notice was incorrectly erected on site, the application

was re-notified for further period of 21 days between 12 September and 4 October 2023.

92. A total 116 properties were notified, and 16 submissions were received during both notification periods. 10 submissions were received during the first notification period and 6 submissions were received during the second notification period.

93. The submissions raised the following issues summarised below:

(a) **Issue:** Unacceptable overshadowing impacts to the James Street Reserve Community Garden

Response: The proposal, as amended on 22 May 2024, has been revised to remove building bulk from the south-western corner as to minimise overshadowing impacts to the James Street Reserve Community Garden. The amended development will maintain solar access to approximately half the area of the Community Garden for 3.5 hours between 11.30am to 3.00pm at mid-winter (improved from the original scheme which provided 1-2 hours of solar access).

Refer to assessment under the headings 'Amendments', 'Section 3.2.1.1 of Sydney DCP 2012' and 'Solar Access to the James Street Reserve Community Garden.'

(b) **Issue:** Unacceptable social impacts due to the proposed overshadowing impacts which results in an unviable community garden

Response: As noted above, the proposed development has been subject to a number of amendments to preserve an acceptable level of solar access to the Community Garden. The revised overshadowing impact is assessed as acceptable and is considered to maintain the viability of the garden.

(c) **Issue:** Height and design of the building will block sunlight to the James Street Reserve Community Garden, in particular to the most productive parts of the garden

Response: Refer to discussion under the headings 'Amendments', 'Section 3.2.1.1 of Sydney DCP 2012', 'Solar Access to the James Street Reserve Community Garden' and 'Clause 4.6 Request to Vary a Development Standard - Height of Buildings'.

(d) **Issue:** Loss of amenity within the community and locality. Development is not in the public interest and inconsistent with the City's Greening Sydney Strategy, Action 7 - Grow Food Locally

Response: The proposal will preserve an acceptable level of solar access the Community Garden to enable the community to continue to grow food.

(e) **Issue:** Pedestrian walkway connecting James Street and Marriott Street should include a cycling option, given James Street is proposed to be a two-way road for cycling.

Response: The pedestrian walkway connecting James Street and Marriott Street is outside of the scope of the subject application (approved as part of the Surry Hills Village development).

- (f) **Issue:** Building height has been incorrectly measured and are not accurately shown on the plans and elevations.

Response: The site has a fall of approximately 0.82m from the north-west (RL 34.2) to the south-east corner of the site (RL 33.38). The building height plane is correctly measured and shown on the architectural plans, elevations and sections.

- (g) **Issue:** Building height is inconsistent with neighbours which are largely Victorian Terraces and exceeds planning restrictions. The Surry Hills Village is a greater height but is contained within its own block and is visually separate.

Response: A written Clause 4.6 variation request has been submitted with the application. As discussed elsewhere in this report, the request provides adequate justification for the proposed variation of the height control and is supported in this instance. The proposed two-storey podium height is considered to provide an appropriate response to the adjoining contributory row of terraces within the Baptist Street heritage conservation area.

- (h) **Issue:** No green space on site.

Response: The proposal provides a biosolar landscaped roof. Refer to Section 3.5 (Urban Ecology), Section 4.2.3.5 (Landscaping) and Section 4.2.3.6 (Deep Soil) of Sydney DCP 2012 above.

- (i) **Issue:** Rear of building is an array of ugly services and is not appropriate for the area. It should be used for street art.

Response: The proposal, as amended, proposes a large-scale public artwork on the southern facade at the ground floor. The previous tenancy included in the original scheme has been deleted.

- (j) **Issue:** Dwellings should be proposed instead of additional commercial and retail uses

Response: The proposed commercial use comprising retail premises, neighbourhood shop and office uses are permissible with consent in the MU1 Mixed Use zone. The development is consistent with the objectives of the MU1 Mixed Use zone.

- (k) **Issue:** Exceedance in Floor Space Ratio

Response: The proposed development complies with the maximum permissible Floor Space Ratio for the site. Refer to Clause 4.4 of Sydney LEP 2012 above.

- (l) **Issue:** Building services located at the western boundary of the site, resulting in adverse noise, vibrations and odour impacts

Response: Appropriate conditions are recommended to minimise noise and vibrations associated with construction. The application was reviewed by Council's Environmental Health Unit who advised the development is acceptable

subject to recommended conditions which are included in Attachment A. It is noted that the fit-out and operation of individual premises will be subject to separate future applications.

- (m) **Issue:** Neighbourhood supermarket is not required given the adjoining Surry Hills Village

Response: A neighbourhood supermarket is permissible with consent in the MU1 Mixed Use zone, and is consistent with the objectives of the zone to encourage a diversity of business, retail and employment generating opportunities.

- (n) **Issue:** Architectural integrity of the development including how it complements the design of the Surry Hills Village and sustainability and green ratings. The development is of a poor standard of design, dull, uninteresting, and unimaginative approach to street level amenity.

Response: As discussed elsewhere in this report, the amended development has been reviewed by Council's Urban Design and Heritage Unit. The proposal exhibits design excellence in accordance with Clause 6.21C of Sydney LEP 2012. The proposed development includes the use of high-quality material finishes including red brick and exposed concrete which are in keeping with the traditional materials found in the nearby contributory buildings and contributes towards the character of the locality and significance of the Baptist Street heritage conservation area.

The proposal, as revised, includes on-site renewable energy generation through the provision of photovoltaic panels on the roof and heat pump systems. The development meets Section J requirements and is in keeping with Section 3.6 of the Sydney DCP 2012. Conditions are recommended to ensure the ESD commitments are carried through to the certification and construction phases of the development.

- (o) **Issue:** Noise and traffic impacts, dust and pollution

Response: Appropriate conditions are recommended to ensure the protection of the public domain and amenity of the surrounding developments during the construction phases of the development.

The car parking spaces provided within the basement level are in accordance with the parking rates stipulated under Clause 7.6 and 7.7 of Sydney LEP 2012. The proposed development is not considered to result in any significant adverse traffic impacts, as discussed under Section 3.11 of Sydney DCP 2012.

Further conditions are recommended to require the future fit-out and specific use of each of the retail tenancies at ground floor fronting Cleveland Street to be subject to a separate application(s), and the neighbourhood supermarket to be subject of a separate development application.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

94. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
95. No credits are applied for the existing use of the site.
96. A condition relating to this development contribution has been included in the recommended conditions of consent. 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

97. Section 7.32 of the Act 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.
98. The proposal is consistent with the criteria under part (c) that is, the proposed uses are permissible under the initial zoning of the site.
99. An affordable housing condition may be reasonably imposed under Section 7.32(3) of the Act subject to consideration of the following:
 - (a) the condition complies with all relevant requirements made by a State Environmental Planning Policy with respect to the imposition of conditions under this section, and
 - (b) the condition is authorised to be imposed by a local environmental plan, and is in accordance with a scheme for dedications or contributions set out in or adopted by such a plan, and
 - (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.

100. Having regard to the provisions of Section 7.32 of the Act, the imposition of an affordable housing contribution is reasonable.
101. 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.
102. The site is located within the Residual Lands affordable housing contribution area.
103. As the proposed development includes the erection of a new building where the gross floor area is more than 200sqm, a contribution required at a rate of \$11,176.22 multiplied by 1% of the total floor area of 2,479.78sqm (being 24.79sqm), totalling \$277,145.66 is applicable.
104. A condition of consent is included in Attachment A requiring the payment of an affordable housing contribution prior to the issue of a construction certificate.

Housing and Productivity Contribution

105. The Housing and Productivity Contribution only applies to applications lodged prior to 1 October 2023.
106. The development is not subject of a Housing and Productivity Contribution under the provisions of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

Relevant Legislation

107. Environmental Planning and Assessment Act 1979.

Conclusion

108. The proposal seeks consent for the demolition of the existing car wash premise and associated ancillary structures, excavation and construction of a 3-storey commercial development with a maximum height of 14.3m (RL 48.4). The development comprises retail uses on ground floor, neighbourhood supermarket use, and office premises above.
109. The proposal, as amended, is appropriate in its setting and is generally compliant with the objectives, standards and guidelines of the relevant applicable planning controls in the SEPP, Sydney LEP 2012, and Sydney DCP 2012, with the exception of the height of buildings development standard. The proposed variations to the controls to the Sydney DCP 2012 have been assessed as acceptable and identified in the report.
110. A written request to justify the contravention to the height of buildings development standard pursuant to Clause 4.6 of Sydney LEP 2012 has been submitted and adequately justifies that compliance with the development standard is unreasonable or unnecessary in this circumstance and that there are sufficient environmental planning grounds to justify contravening the development standard. The proposal satisfies the

objectives of the 'Height of Buildings' development standard prescribed in Clause 4.3 as well as the objectives of the MU1 Mixed Use Zone in the Sydney LEP 2012.

111. The proposed development is compliant with the applicable floor space ratio control and accords with the relevant provisions of the Sydney Local Environmental Plan 2012.
112. Having regard to all of the above matters, the proposed development will not result in any adverse impacts on both the natural and built environment and the locality, is suitable for the site, and is in the public interest, subject to the appropriate conditions.
113. The proposal, as amended, satisfactorily addresses the issues raised by Council officers through the course of assessment, in particular relating to overshadowing impacts of the James Street Reserve Community Garden, building height, bulk, and architectural expression and materiality. The amended proposal is satisfactory, subject to the conditions recommended and included in Attachment A.
114. The proposed development contributes to the character of the Waterloo and Redfern (Cleveland Street) special character area and provides a sympathetic response for the Baptist Street heritage conservation area.
115. Issues raised in all submissions have been taken into account in the assessment, and, where appropriate, conditions of consent have been recommended to address these issues.
116. The development application is recommended for approval, subject to the recommended conditions.

ANDREW THOMAS

Executive Manager Planning and Development

Jessica Joseph, Senior Planner

Attachment A

Recommended Conditions of Consent
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(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2023/682 dated 2 August 2023 and the following drawings prepared by Conrad Gargett Architects:

Drawing Number	Drawing Name	Date
DA 001, Revision 2	Materials and Finishes	15.05.24
DA 002, Revision 2	Materials and Finishes	15.05.24
DA 010, Revision 2	Demolition Plan	15.05.24
DA 020, Revision 2	Site Plan	15.05.24
DA 100, Revision 6	Basement Plan	15.05.24
DA 101, Revision 8	Ground Floor Plan	15.05.24
DA 102, Revision 7	Level 1 Floor Plan	15.05.24
DA 103, Revision 7	Level 02 GA Plan	15.05.24
DA 104, Revision 7	Roof Plan	15.05.24
DA 150, Revision 4	Street Elevations	15.05.24
DA 200, Revision 7	North and South Elevation	15.05.24
DA 201, Revision 7	East and West Elevation	15.05.24
DA 202, Revision 2	Entry Thru Escalators Plans and Elevation	15.05.24
DA 205, Revision 5	Sections	15.05.24
DA 310, Revision 3	Signage Plan - Ground Floor	15.05.24

- (b) Landscape Plans prepared by Black Beetle Landscape Architecture and Design:

Drawing Number	Drawing Name	Date
LA LP 01, Revision 3	Landscape Plan – Level 2 and Rooftop	01.03.24
LA LP 02, Revision 1	Legend/ Notes/ Plant Schedule/ Details	01.03.24

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.

Reason

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

(2) BUILDING HEIGHT

- (a) The height of the building must not exceed RL 46700 (AHD) to the roof of the building and RL 48400 (AHD) to the lift overrun 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.

(3) FLOOR SPACE RATIO

The following applies to Floor Space Ratio:

- (a) The Floor Space Ratio for the commercial development must not exceed FSR 1.58:1 calculated in accordance with the Sydney Local Environmental Plan 2012. For the purposes of the calculation of FSR, the total Gross Floor Area of the development is 1,577.4sqm.
- (b) Prior to an Occupation Certificate being issued, a Registered Surveyor must provide certification of the total Gross Floor Area 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.

(4) GROUND FLOOR RETAIL TENANCIES – SEPARATE APPLICATION REQUIRED

No consent is granted or implied for the fit out and specific use of each ground floor retail tenancy.

A development consent or Complying Development Certificate (as appropriate) is required to be obtained for the specific fit out of each individual tenancy prior to that fit out or use commencing.

Reason

To require separate consent to be obtained for a use.

(5) NEIGHBOURHOOD SUPERMARKET - SEPARATE DA REQUIRED

No consent is granted or implied for the fit out or specific use of the first-floor tenancy as a neighbourhood supermarket. A separate development application is required to be lodged and approved by Council for the use and fit out of the tenancy as a neighbourhood supermarket prior to that fit out or use commencing.

Reason

To require separate consent to be obtained for a use.

(6) SECTION 7.11 CONTRIBUTIONS PAYABLE - CONTRIBUTION TOWARDS PUBLIC AMENITIES – CITY OF SYDNEY DEVELOPMENT CONTRIBUTIONS PLAN 2015 – 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.

<u>Contribution Category</u>	<u>Amount</u>
Open Space	\$75,855.46
Community Facilities	\$71,474.36
Traffic and Transport	\$11,891.53
Stormwater Drainage	\$0.00
Total	\$159,221.35

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

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

Where:

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

- 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 – 139.1 for the June 2024 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.

(7) AFFORDABLE HOUSING CONTRIBUTION – RESIDUAL LAND OR CENTRAL SYDNEY – 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 \$277,145.66 (indexed at 5 August 2024). This is calculated by establishing the sum of the equivalent monetary contribution \$11,176.22 multiplied by 1% of the total floor area for non-residential development (2,479.78sqm) and the equivalent monetary contribution \$11,176.22 multiplied by 3% of the total floor area for residential development (0sqm).
- (c) If the contribution is paid after the indexation period in which the consent is granted, being 1 March 2024 to 28 February 2025, the above contribution will be adjusted according to the Sydney LGA median strata dwelling price (‘MDP’) using the following formula.
- (d) Contribution payable at Time of Payment = $C \times MDP2 / MDP1$, where:
- (i) C is the original total contribution amount payable to the City of Sydney as shown above;

- (ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA taken from the most recent NSW Government Rent and Sales Report at the time of indexation of the equivalent monetary contribution rate; and
- (iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Report used to establish the current equivalent monetary contribution rate, being 1 March 2024 to 28 February 2025.

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.

(8) MATERIALS AND FINISHES SCHEDULE

A detailed material, colours and finishes schedule (including visible rainwater goods and services) keyed to each building elevation must be submitted to and approved by Council's Area Coordinator/ Area Planning Manager Planning Assessments prior to a Construction Certificate being issued.

The materials and finishes of the development must be consistent with the materials and finishes drawings prepared by Conrad Gargett, DA 001 and DA 002, Revision 2. The materials and samples schedule must outline the specifications of materials, 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.

(9) 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.

(10) LANDSCAPE PLANS - GREEN ROOF

Prior to the issue of any Construction Certificate, amended Landscape Plans must be submitted to and approved by Council's Area Planning Manager/ Area Coordinator Planning Assessments to reflect the following:

- (a) The final layout of the photovoltaic cells on the green roof (Drawing LA LP 01) is to be revised as to ensure there is sufficient space between the cells to allow for on-going maintenance of planting.
- (b) Provide a 1:10 scaled cross section to clarify the angle of the photovoltaic cells and area for planting underneath.

Reason

To ensure the final layout of the photovoltaic cells will accommodate planting and permit ongoing maintenance of the green roof.

(11) CAR PARK DOOR AND REVEALS

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

- (a) The new car park panel lift door and reveals (external face of the south and south-eastern walls of Tenancy 3 between gridlines C and D, external face of the northern and eastern walls of the fire stairs, and external face of the northern wall of the lobby) on the Marriott Street elevation must be constructed of high-quality materials.

Reason

To ensure a high-quality durable finish is provided to the vehicular entrance of the building along Marriott Street.

(12) WESTERN BOUNDARY WALL - ADDITIONAL DETAILS TO BE SUBMITTED

The following plans, elevation and section details of the Profiled (ribbed) Precast Concrete Western Side Boundary Wall, at a minimum scale of 1:20, are to be submitted to and approved by Council's Area Coordinator / Area Planning Manager Planning Assessments prior to the issue of any Construction Certificate:

- (a) Details of the high-quality design, detailing and materiality of the concrete side boundary walls are to be provided including details of the three-dimensional form liner of sufficient rib depth, concrete finish and class and provision of construction joints (noting no expressed slab edges are to be provided).
- (b) A physical sample of the Profiled (ribbed) Precast Concrete material.

The required information must include detailed material, finishing, spacing, elemental sizing details. The information submitted should show a level of detail equivalent to 'For Construction' detailing.

Reason

To ensure blank side walls have a visually interesting treatment of high-quality design and materiality and are low maintenance.

(13) GLAZING - ADDITIONAL DETAILS TO BE SUBMITTED

Prior to the issue of any Construction Certificate for above ground works, the following details are to be submitted to Council's Area Coordinator Planning Assessments / Area Planning Manager for approval as follows:

- (a) All transparent glass is to be clear to achieve a high level of transparency to provide visual depth and have a neutrality of colour. A consistency in appearance and colour characteristics between all facades is to be achieved.
- (b) The submitted details are to include physical samples of the glass types, details of the manner of assembly, and the glazing characteristics including the proposed Shading Coefficient, the Visible Light Transmission and the Reflectivity.

Reason

To ensure clear and consistent glazing is used throughout the development.

(14) SIGNAGE STRATEGY - ADDITIONAL DETAILS TO BE SUBMITTED

All signage on the site must be consistent with the approved Signage Plan Drawing DA 310, prepared by Conrad Gargett. All the signs are to be 'business identification signs' only and no sign is to contain any third-party advertisement.

The following further details are to be submitted to and approved by Council's Area Planning Manager / Area Coordinator Planning Assessments prior to the issue of any Construction Certificate:

- (a) Signage plans denoting the number and location of signage designated with each tenancy; and
- (b) Material specification - The materials of all signs are to be compatible with the architecture, materials, finishes and colours of the building.

Reason

To ensure signage is consistent with the approved signage plan.

(15) SIGNAGE GENERAL REQUIREMENTS

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

- (a) The signage is not to contain highly reflective materials, colours and finishes.
- (b) The signage is not to incorporate sound, vibration, odour and other emissions.
- (c) No signs or goods are to be placed on the footway or roadway adjacent to the property.

Reason

To ensure signage is designed in accordance with Section 3.16 of Council's DCP 2012 and to ensure the public domain is kept free from physical obstructions.

(16) SIGN ILLUMINATION

- (a) At no time is the intensity, period of intermittency and hours of illumination of the sign to cause objectionable glare or injury to the amenity of the neighbourhood and as such must be designed, installed and used in accordance with the latest edition of AS/NZS 4828.
- (b) The sign(s) must not flash. Signs with flashing, chasing, pulsating or flickering lights are not permitted.
- (c) The maximum night time luminance of any sign is not to exceed 300 cd/sqm.
- (d) Signage is only permitted to be illuminated while a premises is open.
- (e) Upward facing light sources onto the signage is not permitted.

Reason

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

(17) ERECTION OF SIGNS

All signage 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.

The installation of new business identification signs are to occur at the same time as the fit-out works for the associated tenancy to which the signs relate.

Reason

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

(18) SIGNS AT EGRESS

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

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

Reason

To ensure the safety of surrounding pedestrians and cyclists.

(19) AIR CONDITIONERS GENERALLY

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

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

Reason

To ensure the visual impact of air conditioners is minimised.

(20) EXTERNAL LIGHTING

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

Reason

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

(21) SERVICE VEHICLE SIZE LIMIT

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

Reason

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

(22) 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.

(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) 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.

(25) SUBDIVISION – SEPARATE DA REQUIRED

Any proposal for subdivision 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 or a Strata Certificate under the *Strata Schemes Development Act 2015*

Reason

To ensure separate development consent is sought for any subdivision of the site.

(26) 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.

(27) PARTY WALL STRUCTURAL CERTIFICATION

- (a) Prior to a Construction Certificate being issued, a certificate from a qualified practising structural engineer in accordance with Clause A5.2(1)(e) of the Building Code of Australia must be submitted to the satisfaction of the Registered Certifier. The Certificate must verify the structural integrity of the existing 'Party Wall(s)'.

- (b) Prior to any partial or total demolition of the subject building and improvements erected upon the site, the registered proprietor of the subject Lot will, at their own expense, engage a professional Structural Engineer listed with the National Engineering Register (NER) in Australia to assess the structural integrity of the adjoining building and party wall, and if necessary, carry out appropriate design work, and inspect and oversee its construction and implementation, to ensure that the structural integrity of the adjoining building and party wall erected upon any Lot is not adversely affected in any way by the proposed demolition or construction works.
- (c) The shoring and excavation works of the basement (immediately adjacent to the party wall) must be undertaken in accordance with the Structural Statement dated 8 February 2024 prepared by Dunnings Consulting Engineers (Council Reference: 2024/173369).
- (d) The work to the building and party wall immediately after demolition must include the application of a suitable waterproof membrane, or other appropriate waterproofing system to the satisfaction of Council and the supervising structural engineer referred to above, in the event that any part of the party wall is exposed at any time during the demolition works. The said waterproof membrane must be applied as soon as possible on the day of the exposure of the Party Wall referred to in the Plan. Temporary or permanent cladding must also be fixed to the outside of the exposed Party Wall when the waterproofing is complete to ensure the security of the remaining residence.
- (e) Any removal of an entire party wall within the site will require that the notification on the titles relating to the cross easements be deleted by an appropriate Request Form 11R accompanied by suitable evidence (statutory declaration etc.) confirming the status of the wall (demolished, non-supporting, etc).

Note: Attachments or connections to party walls may require the consent of the adjoining property owner/s.

Reason

To ensure the orderly development of land and to ensure the structural integrity of the existing party wall/s is verified.

(28) PUBLIC ART

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

- (a) The public artwork must be in accordance with the Preliminary Public Art Plan prepared by UAP dated June 2024 (Council Reference 2024/447969), the *Sydney DCP 2012*, the *Public Art Policy*, and the *Interim Guidelines: Public art in private developments*.
- (b) A Detailed Public Art Plan with final details of the proposed public artwork must be submitted to and approved by Council’s Area Planning Manager prior to issue of any Construction Certificate for above ground works.

- (c) Public artwork must be installed to the City's satisfaction, inspected and approved and the Final Public Art Report submitted and approved by Council's Area Planning Manager prior to the issue of any Occupation Certificate.

Note: Public Art must be reviewed and endorsed by the City's Public Art Team and/or the Public Art Advisory Panel prior to submission for Council approval. Further information is available online at <http://www.cityofsydney.nsw.gov.au/explore/arts-and-culture/public-art> Please contact the Public Art Team at publicartreferrals@cityofsydney.nsw.gov.au for further information.

Reason

To ensure public art is installed to the City's satisfaction.

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

A site-specific noise management plan must be submitted to and approved by Council Area Planning Manager/ Area Coordinator Planning Assessments prior to issue of any Construction Certificate. The Plan must be prepared by a suitably qualified acoustic consultant who is a person who possesses the qualifications to join the Australian Acoustic Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustic Consultants (grade of member firm). The plan must include but not be limited to the following:

- (a) Identification of noise sensitive receivers near to the site.
- (b) A prediction as to the level of noise impact likely to affect the nearest noise sensitive receivers from the use and proposed number of high noise intrusive appliances intended to be operated onsite. A statement should also be submitted outlining whether or not predicted noise levels will comply with the noise criteria stated within the *City of Sydney Construction Hours /Noise Code of Practice 1992* for the typical construction hours of 07.00am to 7.00pm. Where resultant site noise levels are likely to be in exceedance of this noise criteria then a suitable proposal must be given as to the duration and frequency of respite periods that will be afforded to the occupiers of neighbouring property.
- (c) A representative background noise measurement ($L_{A90, 15 \text{ minute}}$) should be submitted, assessed in the vicinity of any potentially affected receiver locations and measured in accordance with AS 1055:1.2.1997.
- (d) Confirmation of the level of community consultation that has/is and will be undertaken with Building Managers/ occupiers of the main adjoining noise sensitive properties likely to be most affected by site works and the operation of plant/machinery particularly during the demolition and excavation phases.
- (e) Confirmation of noise monitoring methodology that is to be undertaken during the main stages of work at neighbouring noise sensitive properties in order to keep complaints to a minimum and to ensure that noise from site works complies with the noise criteria contained within City's Construction Noise Code.

- (f) What course of action will be undertaken following receipt of a complaint concerning offensive noise.
- (g) Details of any noise mitigation measures that have been outlined by an acoustic consultant or otherwise that will be deployed on site to reduce noise impacts on the occupiers of neighbouring noise sensitive property to a minimum.
- (h) What plant and equipment is to be used on site, the level of sound mitigation measures to be undertaken in each case and the criteria adopted in their selection taking into account the likely noise impacts on the occupiers of neighbouring property and other less intrusive technologies available.

Reason

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

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

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by Acoustic Logic dated 27th April 2023, referenced: 20230295.1/2704A/R0/SW (Council Reference: 2023/457215) must be implemented in the development prior to the commencement of its use.
- (b) Prior to the issue of any relevant Construction Certificate, the final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the DA Acoustic Report in (a) above, with reference to relevant documentation. This must be done by a Suitably Qualified Acoustic Consultant* (see definition below). This work will be to the satisfaction of the Registered Certifier.
- (c) Prior to the issue of any Occupation Certificate, a Suitably Qualified Acoustic Consultant* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier that the development complies with the requirements set out in the Report and in (a) and (b) above. Note: *Suitably Qualified Acoustic Consultant means a consultant who possesses the qualifications to join the Australian Acoustical Society, Institution of Engineers Australia (grade of member) or the Association of Australasian Acoustical Consultants (grade of member firm).*
- (d) All physical aspects of the building's structure installed in order to meet performance parameters in accordance with this condition must be maintained at all times.

Reason

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

(31) PARKING DESIGN

- (a) The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the Registered Certifier prior to a Construction Certificate being issued.
- (b) The design and layout of all off-street small car parking spaces must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 - 2004 Parking facilities Part 1: Off-street car parking and Council's Development Control Plan. The details must be submitted to and approved by the Principal Certifying Authority prior to a Construction Certificate being issued.
- (c) All small car spaces must be clearly marked and identifiable as small car spaces. The signs or line markings must be in place and approved by the Principal Certifying Authority prior to an Occupation Certificate being issued and must be maintained in good order at all times.

Reason

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

(32) ALLOCATION OF PARKING

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

Car Parking Type	Number
Retail/commercial staff parking	10
Accessible Retail/commercial staff parking	1
Retail/commercial staff small car parking	1
Motorcycle parking	1
Service vehicle spaces	1
Medium rigid vehicle loading dock(s)	1

Reason

To ensure the allocation of parking is in accordance with the Council's DCP.

(33) BICYCLE PARKING AND END OF TRIP FACILITIES

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

Bicycle Parking Type	Number	Requirements
Non-residential	14	Spaces must be Class 2 bicycle facilities
Non-residential visitor	6	Spaces must be Class 3 bicycle rails
End of Trip Facility Type	Number	
Showers with change area	2	
Personal lockers	14	

All bicycle parking spaces and end of trip facility must be provided on private land. The public domain cannot be used to satisfy this condition.

- (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 Registered Certifier confirming prior to and form part of the Construction Certificate being issued.

Reason

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

(34) CONSTRUCTION TRAFFIC MANAGEMENT PLAN

- (a) A Construction Traffic Management Plan must be submitted to and approved by Council prior to a Construction Certificate being issued.
- (b) The approved plan must be complied with during any demolition and/or construction work.

Reason

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

(35) SITE AUDIT STATEMENT

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

hbapplications@cityofsydney.nsw.gov.au

The Site Audit Statement must confirm that the site has been remediated in accordance with the approved Remedial Action Plan and clearly state that site is suitable for the proposed use.

- (a) In circumstances where the Site Audit Statement is subject to conditions that require ongoing review by the Auditor or Council, these must be reviewed and must be approved by the Council's Health and Building Unit in writing through the Area Planning Manager before the Site Audit Statement is issued.
- (b) In circumstances where the Site Audit Statement conditions (if applicable) are not consistent with the consent, the development must not proceed until the inconsistency has been resolved to the satisfaction of Council (such as via a S4.55 modification of the consent pursuant to the provisions of the *Environmental Planning & Assessment Act 1979*).
- (c) **No Occupation Certificate is to be issued** by the Principal Certifier unless a Site Audit Statement has been submitted to and approved by Council in accordance with this condition.

Reason

To ensure that the site is appropriately remediated.

(36) 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 Registered Certifier, prior to a Construction Certificate being issued.

Reason

To ensure the provision of water efficient toilets.

(37) 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 5-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 Registered Certifier, prior to a Construction Certificate being issued.

Reason

To ensure the provision of water efficient urinals.

(38) INSTALLATION OF WATER EFFICIENT TAPS

All taps installed must be water efficient with at least a 5-star rating under the Water Efficiency and Labelling Scheme (WELS). The details are to be submitted for the approval of the Registered Certifier, prior to any Occupation Certificate being issued.

Reason

To ensure the provision of water efficient taps.

(39) INTERNAL LIGHTING SYSTEM

The internal lighting system for the commercial office spaces must provide for the efficient use of energy including the use of energy efficient light fittings, zoned lighting and controls and sensors to ensure automatic switch off during non-working hours. LED lighting technology (or other technology with an improved lighting power density – watts per square metre) must be implemented. Details of the internal lighting system must be submitted to and approved by the Registered Certifier prior to a Construction Certificate being issued.

Reason

To ensure the provision of energy efficient lighting.

(40) DESIGN FOR ENVIRONMENTAL PERFORMANCE

- (a) Prior to the issue of a Construction Certificate, the Design for Environmental Performance Report prepared by Behrooz Shojaei dated Monday, July 10, 2023 (Council Reference: 2023/457199) is to be amended as follows:
 - (i) Section 4 – Energy Efficiency and Greenhouse Gas Emissions Abatement
 - a. Details for space heating and cooling are to be updated when finalised following detailed design.
 - b. Details for domestic hot water are to be updated when finalised following detailed design.

- (ii) Section 6 – On site Renewable Energy Generation and Storage
 - a. Response is to be updated and architectural plans are to include clear markups and provide additional annotations to DA stage plan set around area requirements and output capacity for PV systems when finalised following detailed design. 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 72 kWp.
 - (iii) Section 8 – Designing for mains potable water savings and water efficiency
 - a. Response is to be updated and architectural plans are to include clear markups and annotations around area requirements and storage volume of proposed water capture system when finalised following detailed design.
- (b) Prior to the issue of any Construction Certificate, the Registered 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:
- (i) Section 4 – Energy Efficiency and Greenhouse Gas Emissions Abatement
 - (ii) Section 5 – Passive Design for Thermal Performance – Building Envelope Design
 - (iii) Section 6 – On site Renewable Energy Generation and Storage
 - (iv) Section 7 – Design for Resilience to Climate Change
 - (v) Section 8 – Designing for mains potable water savings and water efficiency
 - (vi) 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/Coordinator prior to the issue of any relevant Construction Certificate.

Reason

To ensure the environmental performance of the development.

(41) PUBLIC DOMAIN DAMAGE BOND

- (a) A Public Domain Damage Deposit calculated on the basis of 295 square metres of concrete and 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.

(42) PROTECTION OF STONE KERBS

- (a) The existing stone kerbs on the Cleveland frontage 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.

(43) SURVEY INFRASTRUCTURE – IDENTIFICATION AND RECOVERY

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

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

- (a) A copy of any Surveyor-General's Approval for Survey Mark Removal granted by NSW Spatial Services for the subject site, including all documentation submitted as part of that application (for example the survey mark audit schedule, strategy plan and strategy report); or
- (b) A letter, signed by a current NSW Registered Land Surveyor and including his or her Board of Surveying and Spatial Information (BOSSI) identification number, stating that all investigations required under Surveyor-General's Direction No.11 have been made for the subject site and that no survey infrastructure will be affected by the proposal.

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

Reason

To ensure the preservation of existing survey infrastructure.

(44) 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.

(45) STORMWATER DRAINAGE DESIGN

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

A certified stormwater drainage design complying with:

- (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.

(46) 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.

(47) FLOOD PLANNING LEVELS

The development must be constructed to comply with the recommended flood planning levels indicated in Figure 6 of the report titled Flood Impact and Risk Management Report prepared by Prabeg Sharma of IGS Pty Ltd dated 26 April 2024 (Council Reference: 2024/311281).

Details must be submitted to the Registered 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.

(48) 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 Cleveland Street, Marriott Street and James Street Reserve and shall be designed to include the following requirements for Cleveland Street:

- Lighting compliance with requirements of AS1158 under Category V3 on the road reserve and PP1 on the footpath is required.
- Supply and install COS Smartpoles type S1B 9.6m complete with 3.0m outreach arm, standard banner arm and high-level GPO, and COS standard LED luminaires.
- Underground Ausgrid cables to avoid clash with COS Smartpoles.

Under Awning lighting:

- Provide under awning lighting complying with the requirements of COS Awnings Policy.
- Lighting standards are as specified for adjacent footways.

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.

(49) DILAPIDATION REPORT - PUBLIC DOMAIN

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

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

Reason

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

(50) DEWATERING - APPROVAL NSW OFFICE OF WATER

If any dewatering of the site is to be undertaken, a bore licence may be required from the NSW Office of Water under the provisions of Part V of the Water Act 1912. The NSW Office of Water licences dewatering to allow excavation for construction for a temporary period, usually 12 months.

NOTE: The Department's instructions to Council are that they will not endorse the extraction of groundwater in perpetuity i.e. permanent dewatering around a development site, because it considers such development to be unsuitable. For this reason any proposed basement or other area that requires dewatering on an on-going basis may need to be fully tanked.

Reason

To ensure dewatering is undertaken appropriately.

(51) 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.

(52) STORMWATER DRAINAGE DESIGN FOR STATE ROADS/OTHER AUTHORITIES

A detailed stormwater management plan prepared by a suitably qualified and experienced professional and complying with Council's Sydney Streets Technical Specifications, Part A4 Stormwater Drainage Design must be submitted to and approved by Sydney Water prior to issue of any Construction Certificate other than demolition. Evidence of this approval must be submitted to Council.

Reason

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

(53) MECHANICAL VENTILATION

- (a) The premises must be ventilated in accordance with the *Building Code of Australia* and *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings*.
- (b) Details of any mechanical ventilation and/or air conditioning system complying with *AS1668.1 and AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings - Mechanical Ventilation in Buildings*, the *Building Code of Australia* and relevant Australian Standards must be prepared and certified in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, to the satisfaction of the Registered Certifier prior to the issue of a Construction Certificate.
- (c) Prior to issue of any Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A5.2(1)(e) of the *Building Code of Australia*, must be submitted to the Principal Certifier.

Reason

To ensure the ventilation complies with relevant standards.

(54) FUTURE FOOD USE - MECHANICAL VENTILATION PROVISION

Prior to the issue of a Construction Certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all commercial tenancies proposed with the potential to become a food premises in future. Systems must be designed in accordance with *AS1668.2 – The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings*, and *AS1668.1 – The Use of Ventilation and Air-conditioning in Buildings – Fire and Smoke Control in Buildings*.

Reason

To ensure the mechanical ventilation complies with relevant standards.

(55) 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 Registered 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 for future food and drink premises are installed in accordance with relevant requirements.

(56) TOILETS FOR FOOD HANDLERS

- (a) Adequate toilet facilities must be available for food handlers working for the future food premise(s). 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(es) must be submitted for the approval of the Registered 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.

(57) WASTE ROOMS (GENERAL WASTE AREAS)

- (a) To ensure the adequate storage and collection of waste from the occupation of the building (including the retail food and drink premise uses on the ground floor), all garbage and recyclable materials emanating from the premises must be stored in the 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 Council’s Policy for Waste Minimisation in New Developments, including the following requirements to minimise odours, deter vermin, and protect surrounding areas:
 - (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 relevant regulatory authority (Sydney Water).
 - (v) Adequately ventilated (mechanically or naturally) so that odour emissions do not cause offensive odour as defined by the *Protection of the Environment Operations Act 1997*.
 - (vi) An adequate lighting system must be provided (natural or artificial) to the waste room to aid with cleaning and the detection of pest activity.
 - (vii) Provided with the appropriate number and size of bins adequate for the storage of waste generated by the business, including recycling.
 - (viii) 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 are to be submitted to the Certifying Authority with the Construction Certificate.

Reason

To ensure adequate storage and collection of waste.

(58) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

- (a) The Operational Waste and Recycling Management Plan, prepared by Ratio Consultants Pty Ltd, accompanying this Development Application has been approved by this consent (Council Reference: 2023/457192).
- (b) A Construction and Demolition 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 Certifying Authority prior to a Construction Certificate being issued.
- (c) All requirements of the approved Waste and Recycling Management Plan must be implemented during construction and operation of the development and include:
 - (i) Dedicated space to be provided within the development for the storage and recycling of bulky waste, problem waste, strip out and food waste.
 - (ii) Collection points for waste and recycling must be wholly located within the boundary of the development.
 - (iii) The nominated waste and recycling storage areas must be constructed to meet the relevant conditions required by the City's *Guidelines for Waste Management in New Developments 2018*.
 - (iv) Provision and storage within the boundary of the development of waste and recycling receptacles and any bulky waste at all times.
 - (v) The path of travel between the bin storage areas/bulky waste storage areas and the designated waste/recycling collection point is to have a minimum 1,200mm wall-to-wall clearance, be slip-proof, of a hard surface, be free of obstructions and at no point have a gradient exceeding 1:14. The use of a lift is permitted, but consideration should be given to the inclusion of a service lift in this instance.

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

UPON COMPLETION OF THE DEVELOPMENT

- (d) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must ensure that waste handling works have been completed in accordance with: the Waste and Recycling Management Plan; other relevant development consent conditions; and Council's *Guidelines for Waste Management in New Developments 2018*.

Reason

To ensure that waste and recycling is appropriately managed.

(59) ELECTRICITY SUBSTATION

If required by the applicable energy supplier, the owner must dedicate to the applicable energy supplier, free of cost, an area of land within the development site, but not in any landscaped area or in any area visible from the public domain, to enable an electricity substation to be installed. The size and location of the substation is to be submitted for approval of Council and Ausgrid, prior to a Construction Certificate being issued or the commencement of the use, whichever is earlier.

Reason

To ensure that the provision of a substation to service the development is appropriately incorporated into the design of the building in a manner that minimises streetscape impacts.

(60) 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.

(61) DILAPIDATION REPORT – MAJOR EXCAVATION/DEMOLITION

- (a) Subject to the receipt of permission of the affected landowner, dilapidation report/s, including a photographic survey of 373 Cleveland Street (and any other properties identified by the qualified structural engineer engaged to undertake the report) are to be prepared by an appropriately qualified structural engineer prior to commencement of demolition/excavation works. A copy of the dilapidation report/s together with the accompanying photographs must be given to the above property owners, and a copy lodged with the Registered 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.

(62) SURVEY

- (a) At Foundation Stage - All footings and walls adjacent to a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be submitted to the Principal Certifier indicating the position of external walls in relation to the boundaries of the allotment. Any encroachments of the subject building over the side boundaries must be removed prior to continuation of building construction work, or alternatively a letter supplied from the registered proprietor(s) of the adjoining lot(s) confirming that they are aware of the nature and extent of the encroachment, and undertaking to execute all necessary documentation to permit the creation of an easement to permit the encroachment to remain.
- (b) Prior to the concrete pour of the main slab at each level, a survey shall be made by a surveyor registered under the *Surveying & Spatial Information Act, 2002*, confirming that the formwork adjacent to existing or proposed boundaries is clear of those existing or proposed boundaries and is in accordance with approved setbacks. This survey shall be provided to the Principal Certifier prior to the concrete pour. The concrete pour must not take place until the Principal Certifier receives a survey proving that the formwork has been constructed within the existing and proposed boundaries of the site, and is compliant with the setbacks approved under this consent.

Reason

To ensure the development does not encroach onto neighbouring properties.

(63) 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 the Registered Certifier.

Reason

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

(64) EROSION AND SEDIMENT CONTROL - BETWEEN 250 AND 2,500SQM

Prior to the commencement of demolition/excavation/construction work, an Erosion and Sediment Control Plan (ESCP) must be submitted to and be approved by the Principal Certifier. The ESCP must:

- (a) Conform to the specifications and standards contained in *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004); the *Guidelines for Erosion and Sediment Control on Building Sites* (City of Sydney, 2004); and the *NSW Protection of the Environment Operations Act 1997*.
- (b) Include a drawing(s) that clearly shows:
 - (i) location of site boundaries and adjoining roads
 - (ii) approximate grades and indications of direction(s) of fall
 - (iii) approximate location of trees and other vegetation, showing items for removal or retention
 - (iv) location of site access, proposed roads and other impervious areas
 - (v) existing and proposed drainage patterns with stormwater discharge points
 - (vi) north point and scale
- (c) Specify how soil conservation measures will be conducted on site including:
 - (i) timing of works
 - (ii) locations of lands where a protective ground cover will, as far as is practicable, be maintained
 - (iii) access protection measures

- (iv) nature and extent of earthworks, including the amount of any cut and fill
- (v) where applicable, the diversion of runoff from upslope lands around the disturbed areas
- (vi) location of all soil and other material stockpiles including topsoil storage, protection and reuse methodology
- (vii) procedures by which stormwater is to be collected and treated prior to discharge including details of any proposed pollution control device(s)
- (viii) frequency and nature of any maintenance program
- (ix) other site-specific soil or water conservation structures.

Reason

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

(65) 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. This shall be detailed in a Pruning Specification Report prepared by a qualified Arborist (minimum AQF Level 5) and submitted to Council for approval.
- (b) Any pruning that has been approved by Council, must be carried out by an arborist with a minimum AQF Level 3 qualification in arboriculture 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.

(66) 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.

(67) 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.

(68) APPLICATION FOR HOARDINGS AND SCAFFOLDING INSTALLED ON OR ABOVE A PUBLIC ROAD AND OPERATING HOISTING DEVICES INCLUDING BUILDING MAINTENANCE UNITS OVER A PUBLIC ROAD

- (a) Where a hoarding and/or scaffolding (temporary structures) are proposed to be installed on or above a road reservation (footway and/or roadway), a separate application under Section 68 of the *Local Government Act 1993* and Sections 138/139 of the *Roads Act 1993* must be submitted to and approved by Council for such structures.
- (b) Where an approval (Permit) is granted allowing the placement of temporary structures on or above a public road the structures must comply fully with Council's *Hoarding and Scaffolding Policy; Guidelines for Hoardings and Scaffolding*; and the conditions of approval (Permit) granted including:
 - (i) maintaining a current and valid approval for the full duration that the temporary structure/s is in place;
 - (ii) maintaining temporary structure/s in a structurally sound and stable condition for the full duration of installation (Clause 2.11.1);
 - (iii) bill posters and graffiti being removed within 24 hours of their placement (Clause 2.11.2);
 - (iv) maintaining temporary structures and the public place adjoining the work site in a clean and tidy condition including repainting and/or repair of graphics (Clauses 2.11.1, 2.11.4, 2.14.1 and 3.9.3);
 - (v) maintaining a watertight deck (Type B hoardings) to prevent liquids including rainwater, falling onto the footway/roadway surfaces (Clauses 3.9.1 and 3.9.4);
 - (vi) approved site sheds on the decks of a Type B hoarding being fully screened from the public place (Clause 3.9.5);
 - (vii) material and equipment not being placed or stored on the deck of Type B hoardings, unless specifically approved by Council (Clause 3.9.4);
 - (viii) providing and maintaining operational artificial lighting systems under Type B hoardings including at high-bay truck entry points (Clause 3.9.9); and

- (ix) ensuring all required signage, artwork or historic images are provided and fully maintained to the City's requirements (Clauses 3.4, 3.9.3, 3.9.6, 3.9.8, 3.10.1 and 4.2).

If it is proposed to operate a hoisting device including a building maintenance unit above a public road which swings, hoists material/equipment and/or slews/wind vanes any part of the device over the public road, a separate application under Section 68 of the *Local Government Act 1993* and Sections 138/139 of the *Roads Act 1993* must be made to Council to obtain approval.

Note: 'Building maintenance unit' means a power-operated suspended platform and associated equipment on a building specifically designed to provide permanent access to the faces of the building for maintenance (*Work Health and Safety Regulation 2017*).

Reason

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

(69) OTHER REQUIRED APPROVALS

Any structure, attachment or 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.

(70) 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.

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

All works conducted on site which form part of this development must be carried out in accordance with the Demolition, Excavation and Construction Management Plan (approved under Condition 29 of this consent).

Where all such control measures have been implemented and the resultant noise and/ or vibration levels at any sensitive receiver still exceed the council's applicable criteria stated in the Construction Hours/Noise Code 1992 and are giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit. Approval to vary the authorised noise and vibration levels must be received in writing by the proponent from Council prior to activities being undertaken that exceed sanctioned emission levels. Such periods must be set and agreed to by Council's Health and Building Unit.

Reason

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

(72) LAND REMEDIATION

The site is to be remediated and validated in accordance with the Remediation Action Plan by Argus dated 18th July 2024, referenced: ES8844/5-Rev2, Council ref: 2024/448224 and Interim Advice 3 (IA3) by NSW EPA Site Auditor Rebeka Hall, Endorsement of Remediation Action Plan for 375-387 Cleveland Street, Redfern, NSW dated 2nd August 2024 and referenced AU124110 IA03, (Council Reference: 2024/448222).

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

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

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

(73) IMPORTED FILL MATERIALS

All fill imported onto the site must be validated to ensure the imported fill is suitable for the proposed land use from a contamination perspective. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.

The City may require details of appropriate validation of imported fill material to be submitted with any application for future development of the site. Hence all fill imported onto the site should be validated by either one or both of the following methods during remediation works:

- (a) Imported fill must be accompanied by documentation from the supplier which certifies that the material is not contaminated based upon analyses of the material for the known past history of the site where the material is obtained; and/or
- (b) Sampling and analysis of the fill material shall be conducted in accordance with NSW EPA (2022) Sampling Design Guidelines.

Reason

To ensure that imported fill is not contaminated.

(74) CLASSIFICATION OF WASTE

Prior to the exportation of waste (including fill or soil) from the site, the waste materials must be classified in accordance with the provisions of the Protection of the *Environment Operations Act 1997* and the *NSW EPA Waste Classification Guidelines, Part1: Classifying Waste (November 2014)*. The classification of the material is essential to determine where the waste may be legally taken. The *Protection of the Environment Operations Act 1997* provides for the commission of an offence for both the waste owner and the transporters if the waste is taken to a place that cannot lawfully be used as a waste facility for a particular class of waste. For the transport and disposal of industrial, hazardous or Group A liquid waste advice should be sought from the EPA.

Reason

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

(75) HAZARDOUS AND INDUSTRIAL WASTE

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

- (a) *Protection of the Environment Operations Act 1997*

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

Reason

To ensure hazardous/ industrial waste is managed appropriately.

(76) DISCHARGE OF CONTAMINATED GROUNDWATER

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

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

Reason

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

(77) STOCKPILES

- (a) No stockpiles of soil or other materials must be placed on footpaths or nature strips unless prior approval has been obtained from the City's Construction Regulation Team.
- (b) All stockpiles of soil or other materials must be placed away from drainage lines, gutters or stormwater pits or inlets.
- (c) All stockpiles of soil or other materials likely to generate dust or odours must be covered.
- (d) All stockpiles of contaminated soil must be stored in a secure area and be covered if remaining more than 24 hours.

Reason

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

(78) COMPLIANCE WITH ACID SULPHATE SOILS MANAGEMENT PLAN

All recommendations contained in the Acid Sulfate Soils Management Plan prepared by Aargus, dated 14 February 2024, document titled ES8844/4, (Council Reference 2024/453577) must be implemented.

Reason

To ensure that Acid Sulphate Soils are appropriately managed.

(79) 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 branch protection must be undertaken prior to the commencement of any works (including demolition). The protection must be installed and certified by a qualified Arborist with a minimum AQF Level 3 qualification in arboriculture 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, 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.

(80) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) All loading and unloading associated with construction activity must be accommodated on site, where possible.
- (b) If, it is not feasible for loading and unloading to take place on site, a Works Zone on the street may be considered by Council.
- (c) A Works Zone may be required if loading and unloading is not possible on site. If a Works Zone is warranted an application must be made to Council at least 8 weeks prior to commencement of work on the site. An approval for a Works Zone may be given for a specific period and certain hours of the days to meet the particular need for the site for such facilities at various stages of construction. The approval will be reviewed periodically for any adjustment necessitated by the progress of the construction activities.
- (d) Where hoisting activity over the public place is proposed to be undertaken including hoisting from a Works Zone, a separate application under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993 must be submitted to and approved by Council.

Reason

To protect the amenity of the public domain.

(81) 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.

(82) VEHICLE CLEANSING

Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

Reason

To ensure sediment is not tracked onto the roadway.

(83) 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.

(84) 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.

(85) NOTIFICATION OF CONDUCT OF FOOD BUSINESS

- (a) If a food business is proposed 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 for any food business must not be issued until such notification has been received by Council in accordance with Clause (a) of this condition.

The above conditions do not prevent issuing an occupation certificate for the building or parts of the building where a food business is not proposed.

Note: Registration forms are available on Council's website www.cityofsydney.nsw.gov.au.

Reason

To ensure Council is notified of food business details.

(86) 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.

(87) REGISTRATION OF COVENANT

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

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

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

Reason

To ensure that contamination is appropriately managed.

(88) SITE AUDIT STATEMENT – ENVIRONMENTAL MANAGEMENT PLAN

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

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

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

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

Reason

To ensure that contamination is appropriately managed.

(89) 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.

(90) 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.

(91) PUBLIC DOMAIN PLAN DETAILED DOCUMENTATION FOR CONSTRUCTION

A detailed public domain plan and all relevant documentation must be submitted to and approved by City's Public Domain Unit prior to the construction of any public domain works. This Plan must document all works required to ensure that the public domain upgrade work complies with the City's specifications and requirements, as outlined in documents such as City of Sydney's *Public Domain Manual*, *Sydney Streets Code*, *Sydney Street Tree Masterplan*, *Sydney Lights: Public Domain Design Code* and *Sydney Streets Technical Specification*. The documentation must be *checked, accurate, and comply with specified requirements*. Plans must be based on an accurate survey, to scale and fully coordinated across all disciplines and submissions. The supplied documentation must be for Construction issue and will be approved under Section 138 of the Roads Act.

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

The Public Domain Plan documentation must be submitted with an Application for Public Domain Plan Assessment and include the approved Public Domain Levels and Gradients documentation. If the proposed detailed design of the public domain requires changes to any previously approved levels, details must be submitted for approval with the public domain plan and additional fees may apply.

Reason

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

(92) 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.

(93) PUBLIC DOMAIN LIGHTING RETICULATION

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

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

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

Reason

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

(94) WASTE AND RECYCLING COLLECTION CONTRACT - COMMERCIAL

Prior to the issue of an Occupation Certificate or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. 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.

(95) 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.

(96) 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.

(97) SURVEY INFRASTRUCTURE – RESTORATION

- (a) Prior to any Occupation Certificate being issued for the development, documentary evidence of restoration must be prepared by a Registered Surveyor and submitted to and approved by Council's Area Planning Manager / Coordinator. This evidence must include:
 - (i) Certification that all requirements requested under the Surveyor-General's Approval for Survey Mark Removal or by the City's Principal Surveyor under condition "Survey Infrastructure – Identification and Recovery" have been complied with;
 - (ii) Certification that all requirements requested under any Surveyor-General's Approval for Deferment of Survey Marks from condition "Survey Infrastructure – Pre Subdivision Certificate works" have been complied with and;
 - (iii) Time-stamped photographic records of all new survey infrastructure relating to the site clearly showing the mark itself and sufficient context to aid in identifying the mark on site.

Reason

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

(98) 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 Flood Impact and Risk Management Report prepared by Prabeg Sharma of IGS Pty Ltd dated 26 April 2024 (Council Reference: 2024/311281).

Reason

To ensure the development achieves the required floor levels.

(99) SURVEY CERTIFICATE PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

Prior to the issue of any staged or Final Occupation Certificate for the building, a Final Identification Survey prepared and signed by a Surveyor, registered under the *Surveying & Spatial Information Act, 2002* must be submitted at the completion of the building work certifying the location of the building and showing offsets in relation to the boundaries of the allotment.

Any encroachments of the building including gutters and downpipes over the side boundaries or rear lane must be removed, or alternatively appropriate easements under Section 88B of the *Conveyancing Act, 1919*, with terms to the satisfaction of Council, must be lodged with the office of NSW Land Registry Services, and evidence of lodgement provided to the Principal Certifier prior to the issue of any staged or Final Occupation Certificate. Encroachments upon public roads must, if supported, be approved by Council's Area Planning Manager prior to the issue of any staged or final Occupation Certificate.

Reason

To ensure the orderly development of land.

(100) RESTRICTION OF END OF JOURNEY – OUTSIDE CENTRAL SYDNEY

Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, a documentary restrictive covenant to the effect that 103.97sqm of the building has been approved as end of journey is to be registered on the Title of the development site pursuant to section 88E of the *Conveyancing Act 1919*. The covenant is to be created appurtenant to Council and at no cost to Council.

Reason

To ensure the bonus floor space approved as part of the consent continuously used for the approved purpose.

(101) RESTRICTION ON USE OF CAR SPACES

The following conditions apply to car parking:

- (a) The on-site car parking spaces, exclusive of service car spaces, are not to be used other than by an occupant or tenant of the subject building.
- (b) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, a documentary restrictive covenant, is to be registered on the Title of the development site pursuant to section 88E of the *Conveyancing Act 1919*, to the effect of (a) above. The covenant is to be created appurtenant to Council, at no cost to and to the satisfaction of Council.
- (c) Any future strata subdivision of the site is to include a restriction on User pursuant to section 63 of the *Strata Schemes Development Act, 2015* as amended, so burdening all utility car parking allotments in the Strata Plan and/or an appropriate restrictive covenant pursuant to section 88B of the *Conveyancing Act 1919* burdening all car parking part - lots in the Strata Scheme.

Reason

To ensure the on-site car parking spaces, exclusive of service car spaces are not to be used other than by an occupant or tenant of the building.

(102) ENCROACHMENTS – NEIGHBOURING PROPERTIES

No portion of the proposed structure shall encroach onto the adjoining properties. Prior to the issue of any Staged or Final Occupation Certificate for the buildings, the Principal Certifier shall review the Final Identification Survey and confirm that the proposed structures stand wholly within the subject boundaries. Any encroachments of the building over the side boundaries must be removed, or alternatively appropriate easements under Section 88B of the *Conveyancing Act, 1919*, with terms to the satisfaction of Council, must be lodged with the office of NSW Land Registry Services, and evidence of lodgement provided to the Principal Certifier prior to the issue of any Interim or Final Occupation Certificate.

Reason

To ensure the orderly development of land, and that the property rights of adjoining owners are respected.

(103) ENCROACHMENTS – PUBLIC WAY

No portion of the proposed structure, including gates and doors during opening and closing operations, guttering, overhangs or downpipes shall encroach upon Council's footpath or Lane area. Prior to the issue of any staged or Final Occupation Certificate for the buildings, the Principal Certifier shall review the Final Identification Survey and confirm that the buildings and structures stand wholly within the subject boundaries. Any encroachments shall be removed or alternatively a letter obtained from Council's Area Planning Manager confirming that removal of the encroachment is not required.

Reason: To ensure the orderly development of land.

(104) SYDNEY WATER SECTION 73 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 the Principal Certifier prior to any Occupation Certificate or subdivision/strata certificate being issued.

Reason

For compliance with the Sydney Water Act 1994.

(105) PHYSICAL MODELS

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

Note:

- (i) The models must be constructed in accordance with the Model Specifications available online at <http://www.cityofsydney.nsw.gov.au/development/application-guide/application-process/model-requirements> Council's modellers must be consulted prior to construction of the model.
- (ii) The models are to comply with all of the conditions of the Development Consent.
- (iii) The models must be amended to reflect any further modifications to the approval (under Section 4.55 of the *Environmental Planning and Assessment Act*) that affect the external appearance of the building.

Reason

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

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

- (a) Prior to any Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to and approved by Council's Area Coordinator Planning Assessments/Area Planning Manager for the electronic Visualisation City Model.
- (b) The data required to be submitted within the surveyed location must include and identify:
 - (i) building design above and below ground in accordance with the development consent;
 - (ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;
 - (iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C.

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

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

Reason

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

(107) 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.

(108) NOISE

- (a) The $L_{Aeq, 15 \text{ minute}}$ noise level from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) by more than 5dB between 7.00am and 12.00 midnight when assessed at the boundary of any residential accommodation or tourist and visitor accommodation.
- (b) The $L_{Aeq, 15 \text{ minute}}$ noise level from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) between 12.00 midnight and 7.00am when assessed at the boundary of any residential accommodation or tourist and visitor accommodation.
- (c) Notwithstanding (a) above, the $L_{Aeq, 15 \text{ minute}}$ noise level from the use must not exceed the greater of the following levels between 7am and 12 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 $L_{A90, 15 \text{ minute}}$ (from external sources excluding the use) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive). Or,
 - (ii) If the $L_{Z90, 15 \text{ minute}}$ 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 (L_p) of the Tf curve in that octave band shall become that octave's $L_{Zeq, 15 \text{ minute}}$ noise criteria level.
- (d) Notwithstanding (b) above, the $L_{A1, 15 \text{ minute}}$ noise level from the use must not exceed the greater of the following sound pressure levels inside any habitable room between 12 midnight and 7am inside any habitable room of an affected residential accommodation or tourist and visitor accommodation:
 - (i) The existing internal $L_{A90, 15 \text{ minute}}$ (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 $L_{Z90, 15 \text{ minute}}$ 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 (L_p) of the Tf curve in that octave band shall become that octave's $L_{Z1, 15 \text{ minute}}$ 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 NPfl unless otherwise agreed by the City's Area Planning Manager.

Reason

To protect the acoustic amenity of surrounding properties.

(109) NOISE – COMMERCIAL PLANT / INDUSTRIAL DEVELOPMENT

- (a) Noise from commercial plant and industrial development must not exceed a project amenity/intrusiveness noise level or maximum noise level in accordance with relevant requirements of the NSW EPA [Noise Policy for Industry 2017 \(NPfI\)](#) unless agreed to by the City's Area Planning Manager. Further:
 - (i) Background noise monitoring must be carried out in accordance with the long-term methodology in [Fact Sheet B](#) of the NPfI unless otherwise agreed by the City's Area Planning Manager.
 - (ii) Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.
- (b) An $L_{Aeq,15 \text{ minute}}$ (noise level) emitted from the development must not exceed the $L_{A90, 15 \text{ minute}}$ (background noise level) by more than 3dB when assessed inside any habitable room of any affected residence or noise sensitive commercial premises at any time. Further:
 - (i) The noise level and the background noise level must both be measured with all external doors and windows of the affected residence closed.
 - (ii) Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected 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.

(110) GROUND FLOOR TENANCIES - HOURS OF OPERATION AND MAXIMUM CAPACITY

- (a) The hours of operation of the ground floor retail tenancies are restricted to between 7.00am to 10.00pm, Monday to Sunday inclusive.

The individual fit-out and specific use of each ground floor tenancy is to be subject of separate development consent/s or Complying Development Certificate/s (as appropriate).

Reason

To ensure the premises can safely accommodate patrons, staff and performers and safeguard the amenity of the surrounding neighbourhood.

(111) DELIVERIES AND WASTE COLLECTION

All deliveries and collection of waste associated with the site must not occur between the hours of 10.00pm and 6.00am, Mondays to Sundays.

Reason

To protect the acoustic amenity of surrounding properties.

(112) 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.

(113) 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 the registered certifier prior to the issue of an Occupation Certificate for the site/use:

- A Transport Access Guide detailing sustainable transport options to access the site including public transport, cycling and walking or a combination of these modes, and
- Communication methods by which the Transport Access Guide will be made available to staff, clients, customers and visitors.

Reason

To ensure that sustainable transport options are considered and communicated effectively.

(114) 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.

(115) 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.

(116) HOT WATER SERVICE

The capacity of the hot water service must ensure that a constant supply of hot water is provided to the premises at all times for all sinks and basins including hand wash basin/s. The temperature of the hot water provided to the sinks must be in accordance with *AS4674 – Design, Construction and Fit-out of Food Premises* and the *Australia New Zealand Food Standards Code 3.2.2 - Food Safety Practices* and general requirements.

Reason

To ensure the food premises has a constant supply of hot water in accordance with relevant standards.

(117) EMISSIONS

- (a) The use of the premises must not give rise to the emission of gases, vapours, dusts or other impurities which are a nuisance, injurious or prejudicial to health.
- (b) Gaseous emissions from the development must comply with the requirements of the *Protection of the Environment Operations Act 1997* and *Protection of the Environment Operations (Clean Air) Regulation 2010*.
- (c) Uses that produce airborne particulate matter must incorporate an effective dust collection system.

Reason

To protect the amenity of the surrounding area.

(118) AWNING MAINTENANCE

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

Reason

To ensure that awnings are appropriately maintained.

(119) 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 (E_{avg}/E_{min}) must not exceed 4:1 to ensure safe movement of pedestrians.
- (c) the intensity, colour, period of intermittency and hours of illumination must be varied if adverse impact or Obtrusive Light in accordance with the definition in Australian Standard AS4282-1997 *Control of the obtrusive effects of outdoor lighting* is being caused to the amenity of the area.
- (d) where nearby residents are located above the level of the under-awning lighting, details are to be provided to show that light is not directed upwards toward such residences.

Reason

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

TRANSPORT FOR NSW - REFERRAL CONDITIONS

(120) CLEVELAND STREET BOUNDARY

All buildings and structures (other than pedestrian footpath awnings), together with any improvements integral to the future use of the site are to be wholly within the freehold property unlimited in height or depth along the Cleveland Street boundary.

(121) REDUNDANT DRIVEWAY – CLEVELAND STREET

The redundant driveway on the Cleveland Street boundary shall be removed and replaced with kerb and gutter to match existing. The design and construction of the kerb and gutter works on Cleveland Street shall be in accordance with TfNSW requirements. Details of these requirements should be obtained by email to developerworks.sydney@transport.nsw.gov.au.

Detailed design plans of the proposed kerb and guttering are to be submitted to TfNSW for approval prior to the issue of a construction certificate and commencement of any road works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee and lodgement of a performance bond is required from the applicant prior to the release of the approved road design plans by TfNSW.

(122) DETAILED DESIGN PLANS AND HYDRAULIC CALCULATIONS

Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system that impact upon Cleveland Street are to be submitted to TfNSW for approval, prior to the commencement of any works. Please send all documentation to development.sydney@transport.nsw.gov.au.

A plan checking fee will be payable, and a performance bond may be required before TfNSW approval is issued.

(123) DESIGN DRAWINGS AND DOCUMENTS - TO BE SUBMITTED TO TFNSW

The developer is to submit design drawings and documents relating to the excavation of the site and support structures to TfNSW for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by TfNSW. Please send all documentation to development.sydney@transport.nsw.gov.au.

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

(124) PUBLIC UTILITY ADJUSTMENT/ RELOCATION WORKS

The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work, and as required by the various public utility authorities and/or their agents.

(125) ROAD OCCUPANCY LICENCE

A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Cleveland Street during construction activities. A ROL can be obtained through <https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>.

AUSGRID - REFERRAL CONDITIONS

(126) AUSGRID UNDERGROUND CABLES ARE IN THE VICINITY OF THE DEVELOPMENT

Special care should be taken to ensure that driveways and any other construction activities do not interfere with existing underground cables located in the footpath or adjacent roadways.

It is recommended that the developer locate and record the depth of all known underground services prior to any excavation in the area. Information regarding the position of cables along footpaths and roadways can be obtained by contacting Dial Before You Dig (DBYD).

In addition to DBYD the proponent should refer to the following documents to support safety in design and construction:

SafeWork Australia – Excavation Code of Practice.

Ausgrid's Network Standard NS156 which outlines the minimum requirements for working around Ausgrid's underground cables.

The following points should also be taken into consideration.

Ausgrid cannot guarantee the depth of cables due to possible changes in ground levels from previous activities after the cables were installed.

Should ground anchors be required in the vicinity of Ausgrid underground cables, the anchors must not be installed within 300mm of any cable, and the anchors must not pass over the top of any cable.

(127) AUSGRID OVERHEAD POWERLINES ARE IN THE VICINITY OF THE DEVELOPMENT

The developer should refer to SafeWork NSW Document – Work Near Overhead Powerlines: Code of Practice. This document outlines the minimum separation requirements between electrical mains (overhead wires) and structures within the development site throughout the construction process. It is a statutory requirement that these distances be maintained throughout the construction phase.

Consideration should be given to the positioning and operating of cranes, scaffolding, and sufficient clearances from all types of vehicles that are expected be entering and leaving the site.

The "as constructed" minimum clearances to the mains must also be maintained. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid's website at: www.ausgrid.com.au.

It is the responsibility of the developer to verify and maintain minimum clearances onsite. In the event where minimum safe clearances are not able to be met due to the design of the development, the Ausgrid mains may need to be

relocated in this instance. Any Ausgrid asset relocation works will be at the developer's cost.

Additional information can be found in the Ausgrid Quick Reference Guide for Safety Clearances "Working Near Ausgrid Assets - Clearances". This document can be found by visiting the following Ausgrid website:

www.ausgrid.com.au/Your-safety/Working-Safe/Clearance-enquiries.

Attachment B

Selected Drawings



VIEW AT COR. OF CLEVELAND & MARRIOTT ST.



VIEW ALONG CLEVELAND ST.

Revision	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	26.06.23	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
**PHOTOMONTAGE SHEET
1 OF 3**

A1 Scale
Project **220098**
Issue **2**

Number **DD - DR - AR - DA 350**

Details
Copyright Conrad Gargett, ACH 636 465 373 ABN 61 636 465 373
Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Tomko NSW Reg. 10255,
Nominated Architect: Ollian Condon NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360.



DEVELOPMENT APPROVAL



VIEW ALONG MARRIOT ST.



VIEW ALONG JAMES ST.

Revision	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	26.06.23	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
**PHOTOMONTAGE SHEET
2 OF 3**

A1 Scale
Project 220098
Issue 2

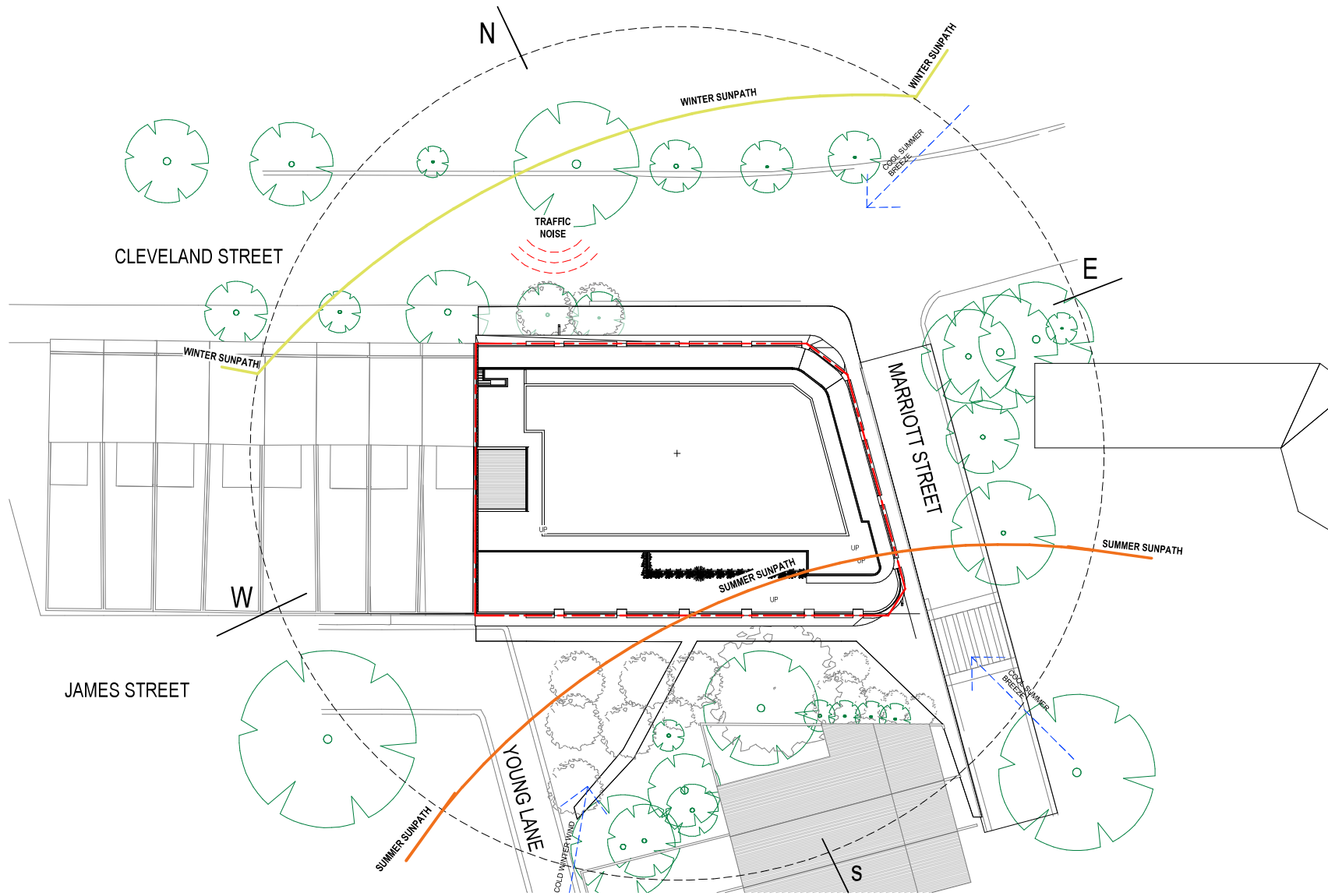
Number DD - DR - AR - DA 351

Details
Copyright Conrad Gargett, ACN 636 465 373 ABN 61 636 465 373
Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Tomko NSW Reg. 10253,
Nominated Architect: Gillian Donohue NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360,



DEVELOPMENT APPROVAL

141



Revision	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	26.06.23	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

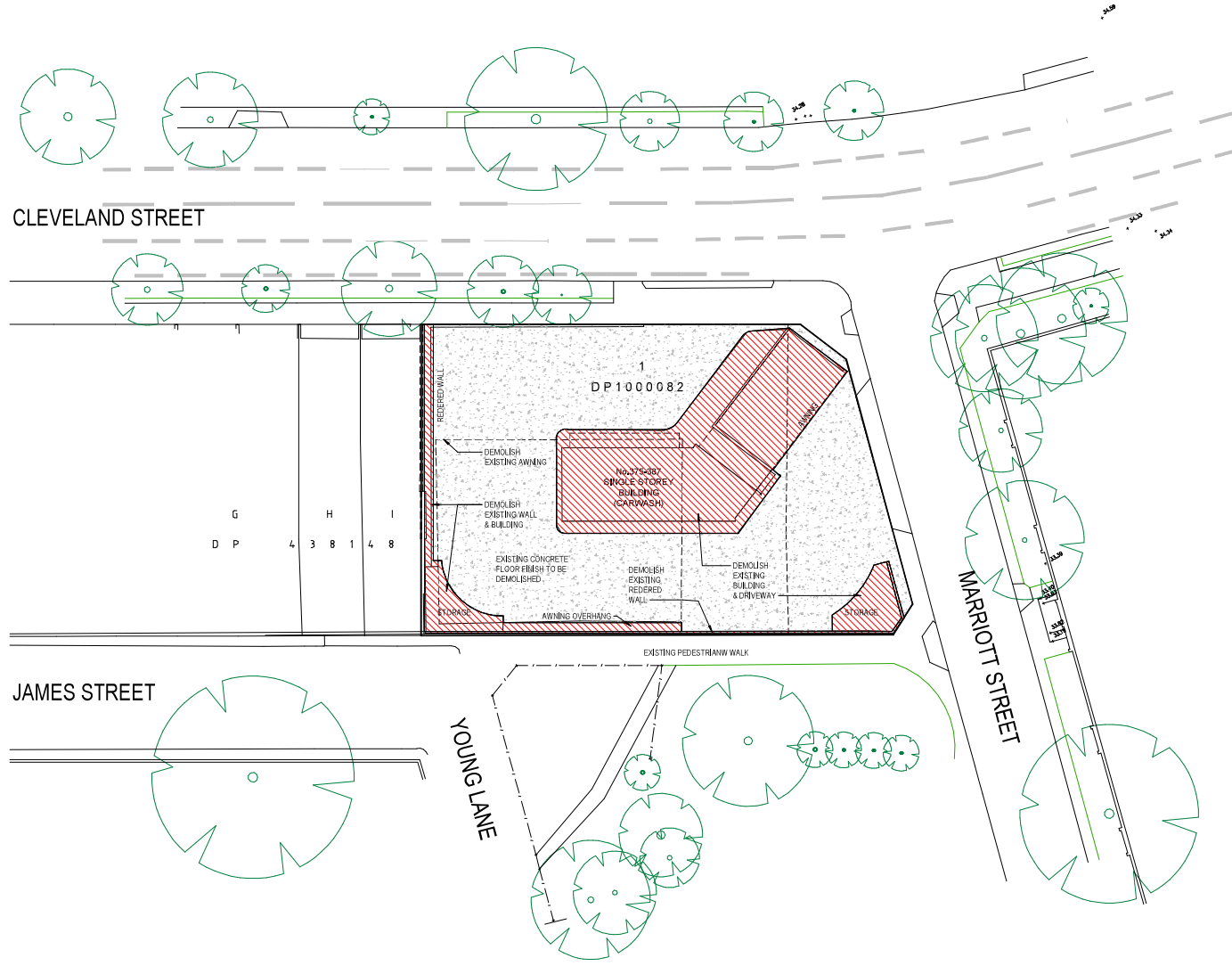
Drawing
BUILT FORM ANALYSIS

A1 Scale 1 : 200
Project 220098
Issue 2

Number DD - DR - AR - DA 003

Details
Copyright Conrad Gargett. ACN 636 465 373 ABN 61 636 465 373
Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Tomko NSW Reg. 10255,
Nominated Architect: Gillian Condon NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360.





REV	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	26.06.23	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

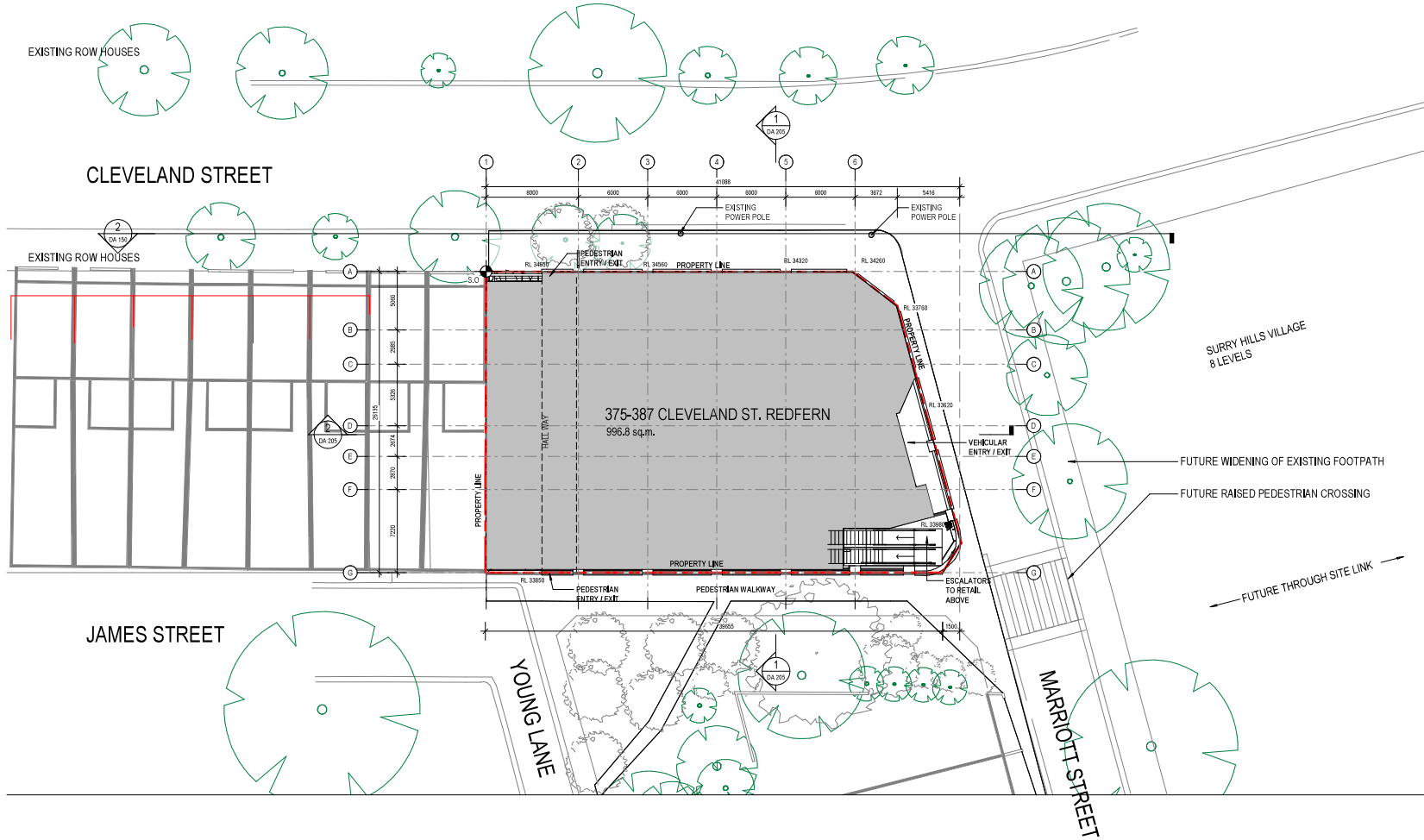
Drawing
DEMO PLAN

A1 Scale 1 : 200
Project 220098
Issue 2

Number DD - DR - AR - DA 010

Details
Copyright Conrad Gargett. ACN 636 465 373 ABN 61 636 465 373
Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Tomko NSW Reg. 10255.
Nominated Architect: Oskar Condon NSW Reg. 11726.
Nominated Architect: Laura Cookburn NSW Reg. 6360.





Revision	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	20.06.23	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
SITE PLAN

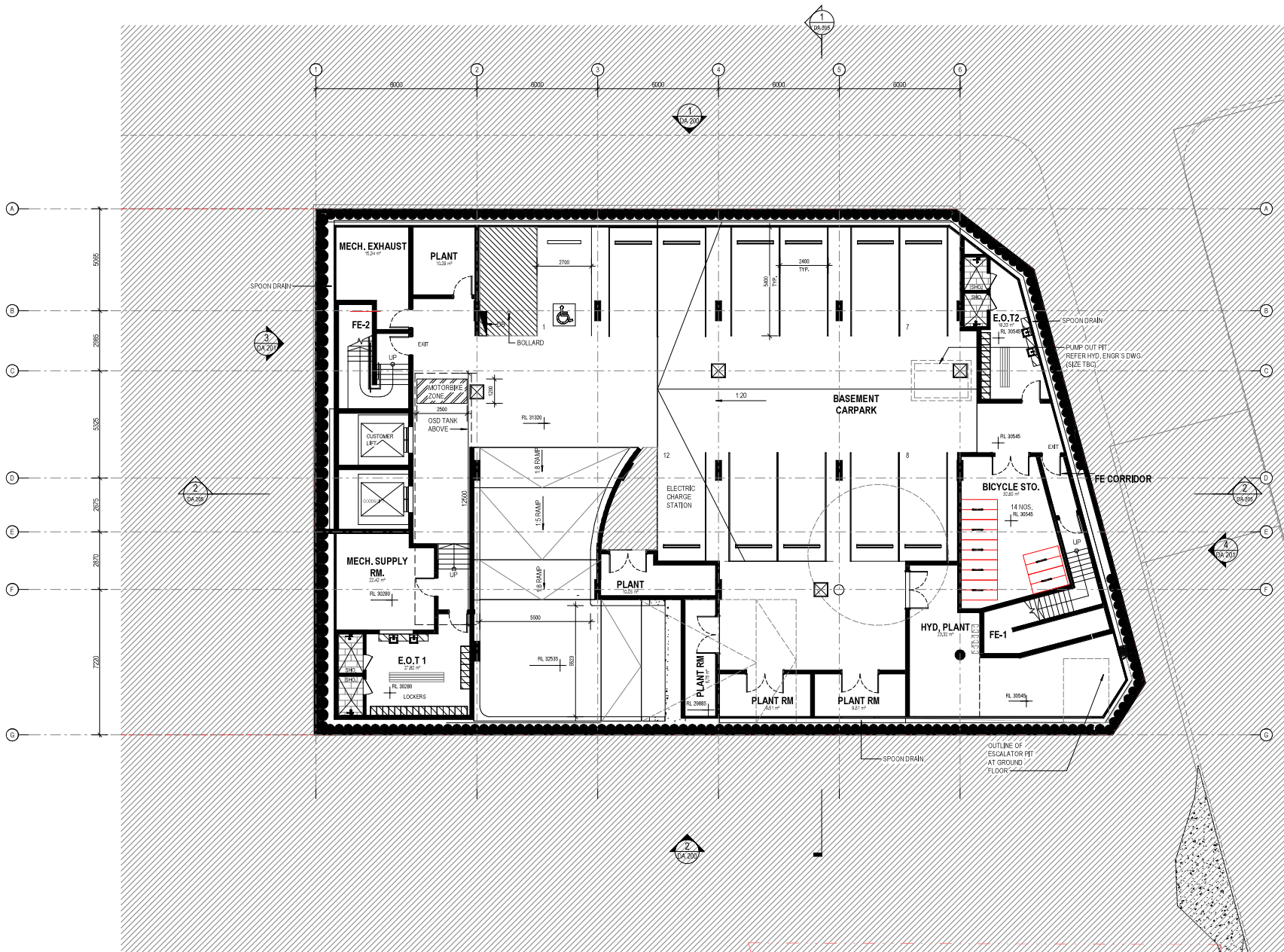
A1 Scale 1 : 200
Project 220098
Issue 2

Number DD - DR - AR - DA 020

Details
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Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Tomko NSW Reg. 10255,
Nominated Architect: Gillian Condon NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360.



144



REV	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	30.06.23	AC
2	ISSUED FOR INFORMATION	30.01.24	AC
3	ISSUED FOR INFORMATION	26.02.24	AC
4	ISSUED TO COUNCIL	07.03.24	AC
5	ISSUED TO CONSULTANT	02.06.24	JM
6	ISSUED TO COUNCIL	15.06.24	AC

Client
STASIA PTY LTD

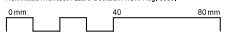
Project
Cleveland St Mixed Use

Drawing
BASEMENT PLAN

A1 Scale: 1 : 100
Project: 220098
Issue: 6

Number: DD - DR - AR - DA 100

Details
Copyright Conrad Gargett, A/CN 636 463 373 A/N 61 636 463 373
Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Tomko NSW Reg. 10255.
Nominated Architect: Coban Condon NSW Reg. 11726.
Nominated Architect: Laura Cookburn NSW Reg. 6360.



FINISHES LEGEND

ABBREV	DESCRIPTION
BRK	ASSORTED RED BRICK
CFP	CEMENT FINISH PANELLING
CN	CONCRETE
DB	DISTRIBUTION BOARD
DBF	HAWA VARIOTEC GLAZED BI-FOLD DOORS OR EQUIVALENT
DP	DOWNPIPE
FRZ	FROSTED GLASS FINISH
GAF	GLAZING ALUMINUM FRAME - BLACK
GOB	COLOR BACKED OPAQUE EXTERNAL GLAZING-GREY
GLE	EXTERNAL GLAZING
LS	SWITCH LIGHT
MCF	METAL FINISH CAPPING TO MATCH GAF
MFC	METAL FINISH CLADDING
MFP	METAL FINISH PROFILES TO MATCH MFC
MLV	METAL LOUVRES COLOUR TO MATCH GAF
PCF	PAINTED COLOUR TO MATCH CFP
POD	PERFORATED PANEL LIFT DOOR
RPC	RIBBED PRECAST CONCRETE PANEL
TLG	TILING

Revision	REV.	DESCRIPTION	DATE	APP.
1	2	ISSUED FOR INFORMATION	30.01.24	AC
2	3	ISSUED FOR INFORMATION	26.02.24	AC
3	4	ISSUED FOR INFORMATION	29.02.24	AC
4	5	ISSUED TO COUNCIL	07.03.24	AC
5	6	ISSUED TO COUNCIL	12.04.24	AC
6	7	ISSUED TO CONSULTANT	02.05.24	JN
7	8	ISSUED TO COUNCIL	15.06.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
GROUND FLOOR PLAN

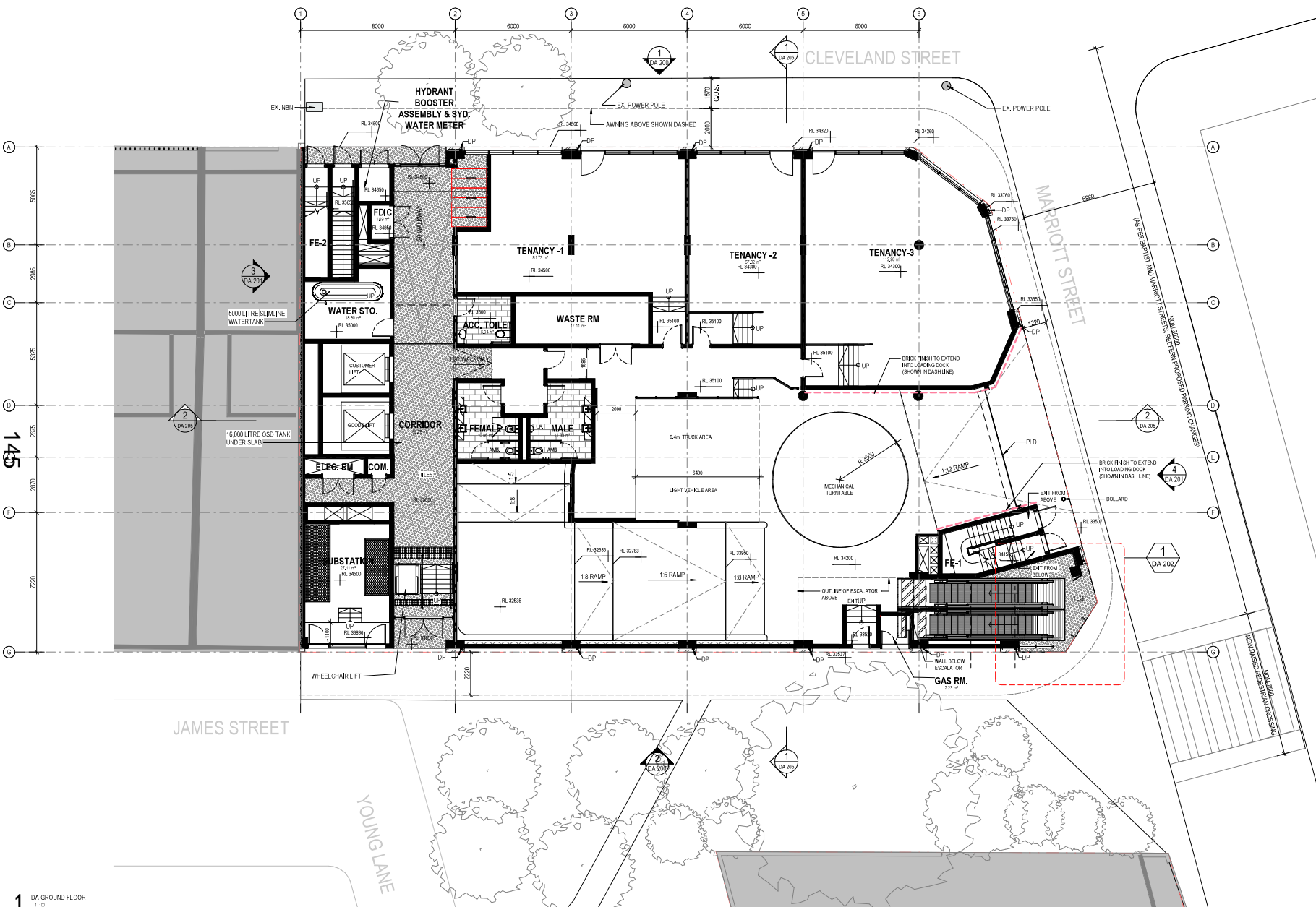
A1 Scale 1 : 100
Project 220098
Issue 8

Number DD - DR - AR - DA 101

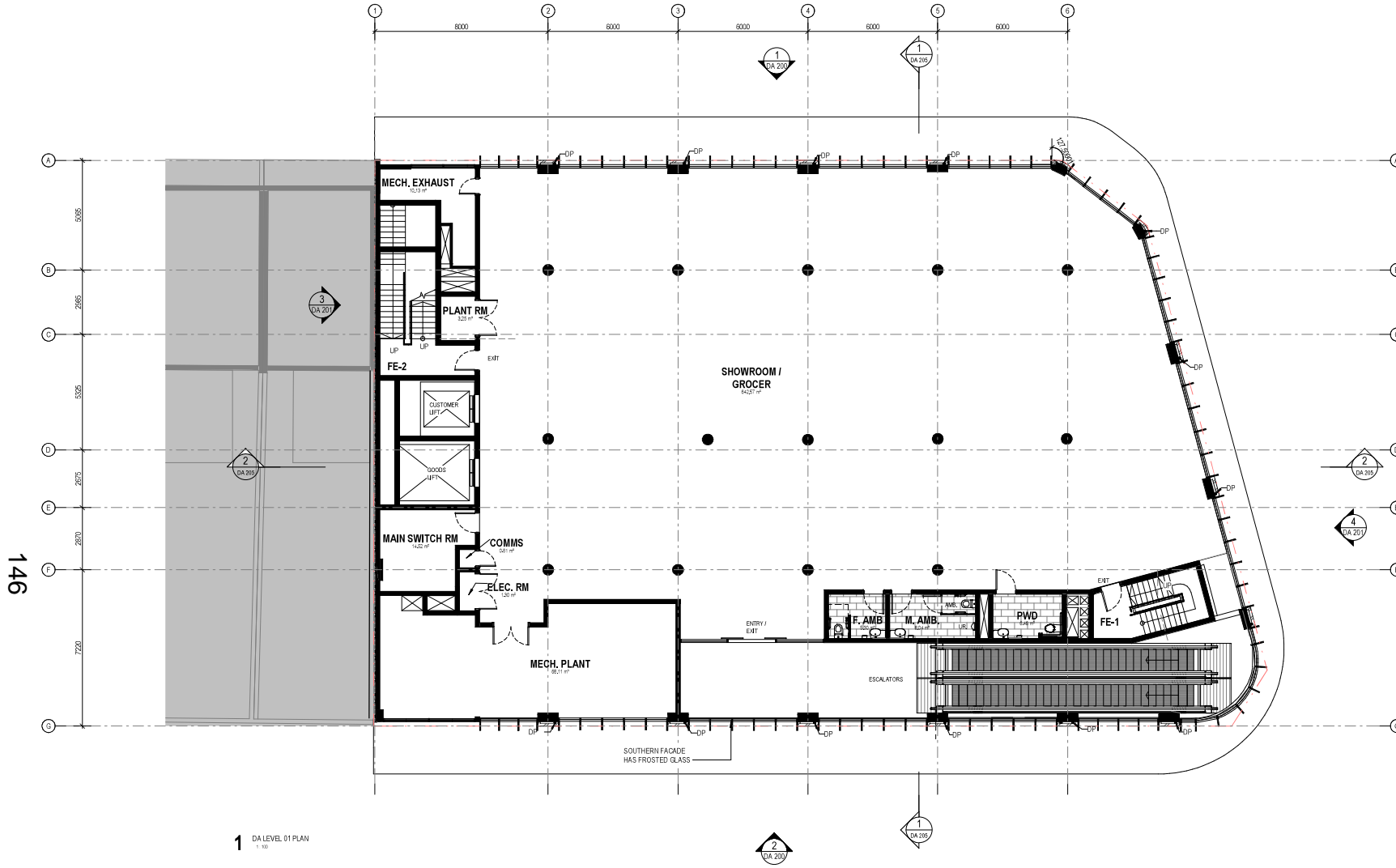
DEVELOPMENT APPROVAL

Details
Copyright Conrad Gargett, ACN 630 465 373 ABN 81 630 465 373
Do not take this drawing and verify all dimensions and levels on site.
Nominated Architect: Laurence Todd NSW Reg. 10255,
Nominated Architect: Gillian Donohue NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360.

1 0 1 2 3 4 5 6 7
SCALE 1:100



1 DA GROUND FLOOR
1:100



FINISHES LEGEND

ABBREV	DESCRIPTION
BRK	ASSORTED RED BRICK
CFP	CEMENT FRESH PANELLING
CN	CONCRETE
DB	DISTRIBUTION BOARD
DBF	HAWA VARIOTEC GLAZED BI-FOLD DOORS OR EQUIVALENT
DP	DOWNPIPE
FRZ	FROSTED GLASS FINISH
GAF	GLAZING ALUMINIUM FRAME - BLACK
GGB	COLOR BACKED OPAQUE EXTERNAL GLAZING-GREY
GLE	EXTERNAL GLAZING
LS	SWITCH LIGHT
MCP	METAL FINISH COPPING TO MATCH GAF
MFC	METAL FINISH CLADDING
MFP	METAL FINISH PROFILES TO MATCH MFC
MLV	METAL LOUVRES COLOUR TO MATCH GAF
PCF	PAINTED COLOUR TO MATCH GAF
POS	PAINTED COLOUR TO MATCH GAF
PLD	PERFORATED PANEL LIFT DOOR
RPC	RIBBED PRECAST CONCRETE PANEL
TLG	TILING

REV	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	30.06.23	AC
2	ISSUED FOR INFORMATION	26.02.24	AC
3	ISSUED FOR INFORMATION	29.02.24	AC
4	ISSUED TO COUNCIL	07.03.24	AC
5	ISSUED TO COUNCIL	12.04.24	AC
6	ISSUED TO CONSULTANT	02.05.24	JN
7	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
LEVEL 1 FLOOR PLAN

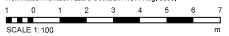
A1 Scale: **1 : 100**

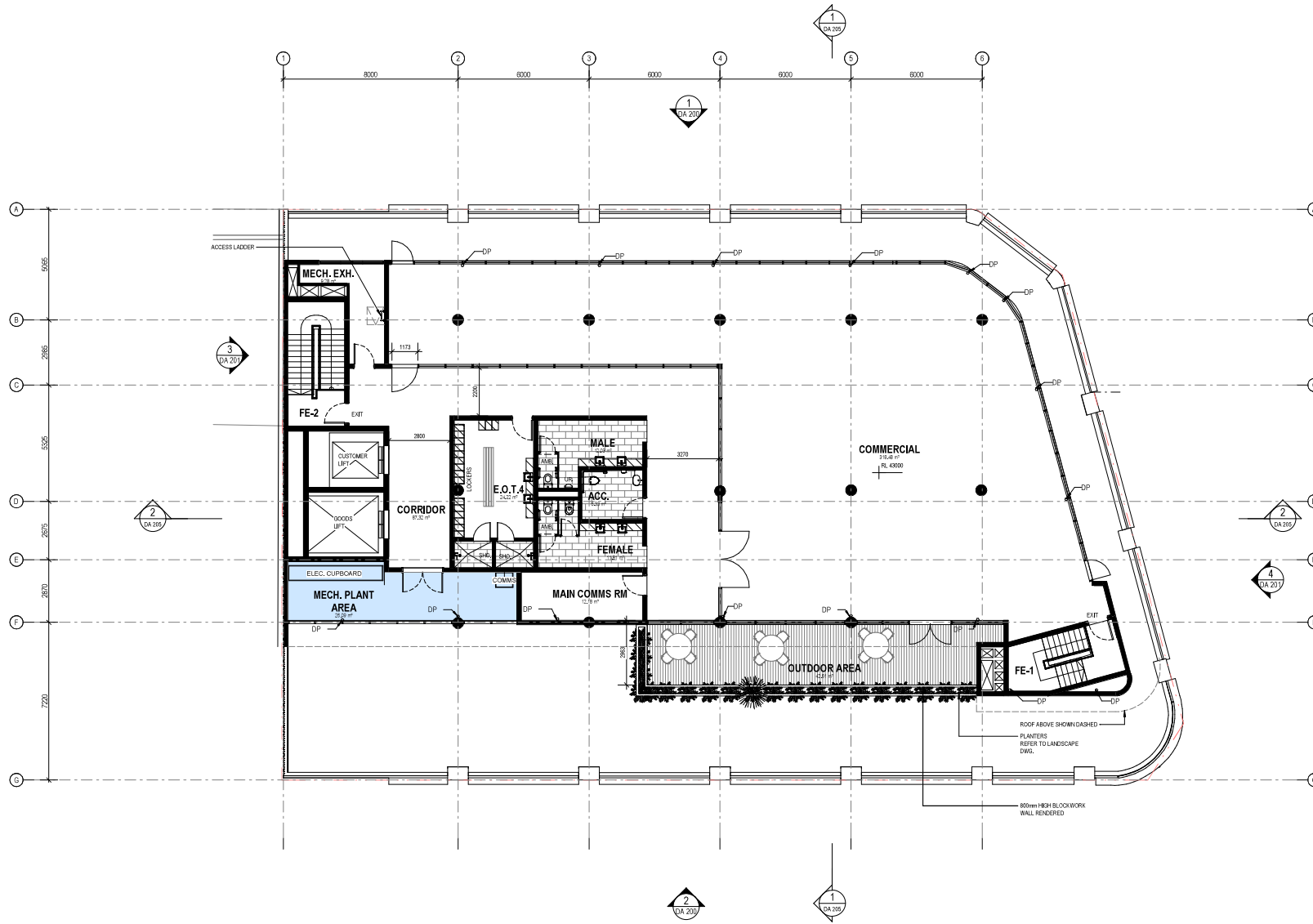
Project: **220098**

Issue: **7**

Number: **DD - DR - AR - DA 102**

Details
Copyright Conrad Gargett, A/CN 536 450 373 A/BM 51 631 450 373
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Nominated Architect: Lawrence Toole NSW Reg. 10255,
Nominated Architect: Gillian Condon NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360.





1 DA LEVEL 02 PLAN
1:100

REV	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	30.06.23	AC
2	ISSUED FOR INFORMATION	26.05.24	AC
3	ISSUED FOR INFORMATION	26.02.24	AC
4	ISSUED TO COUNCIL	07.03.24	AC
5	ISSUED TO COUNCIL	12.04.24	AC
6	ISSUED TO CONSULTANT	02.05.24	JN
7	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
LEVEL 02 GA PLAN

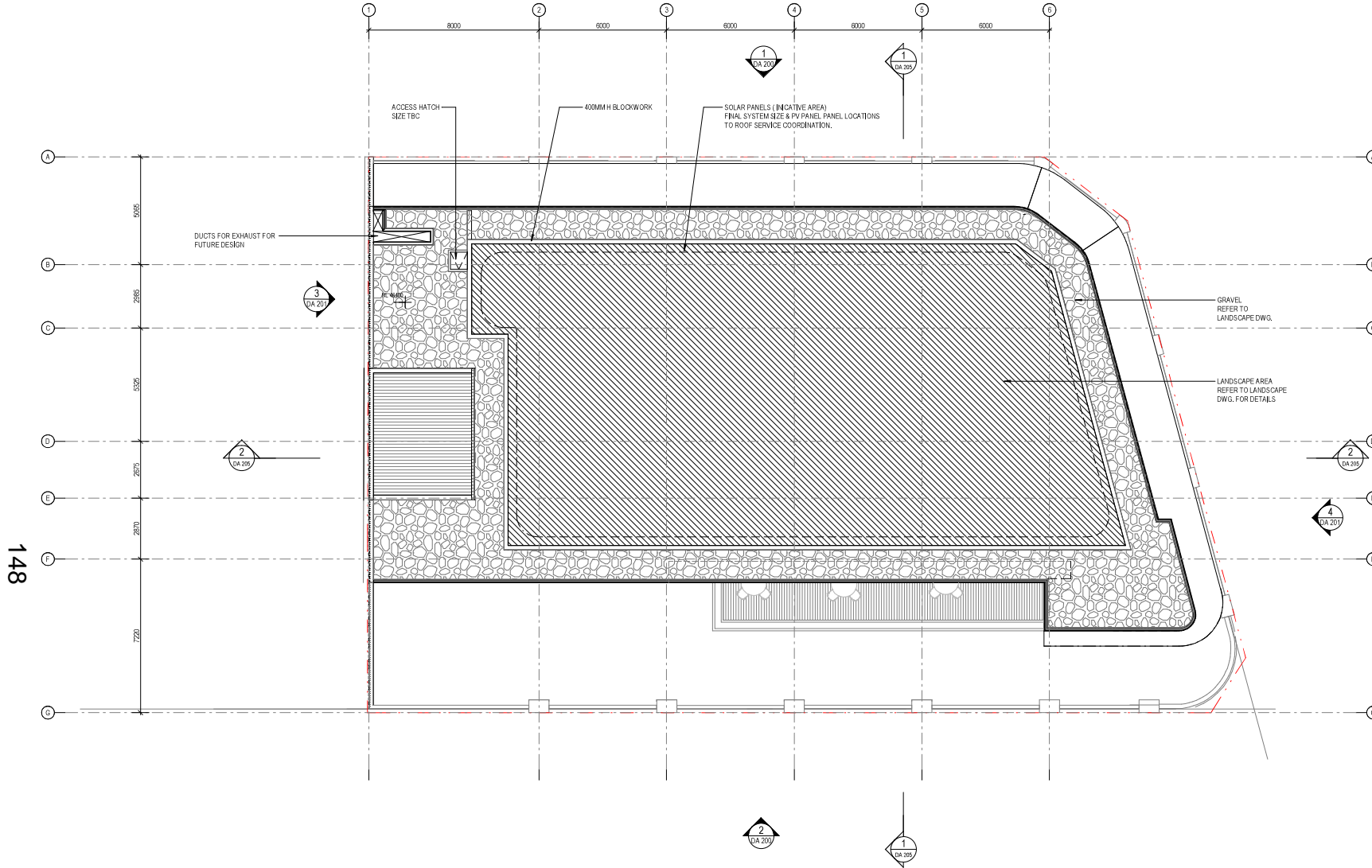
A1 Scale: 1 : 100
Project: 220098
Issue: 7

Number DD - DR - AR - DA 103

Details
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Nominated Architect: Lawrence Tomko NSW Reg. 10255.
Nominated Architect: Oskar Condon NSW Reg. 11726.
Nominated Architect: Laura Cookburn NSW Reg. 6360.



DEVELOPMENT APPROVAL



1 DA_ROOF PLAN
1:100

REV	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	30.06.23	AC
2	ISSUED FOR INFORMATION	26.05.24	AC
3	ISSUED FOR INFORMATION	29.02.24	AC
4	ISSUED TO COUNCIL	07.03.24	AC
5	ISSUED TO COUNCIL	12.04.24	AC
6	ISSUED TO CONSULTANT	02.05.24	JN
7	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

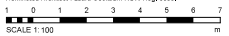
Project
Cleveland St Mixed Use

Drawing
ROOF PLAN

A1 Scale: 1 : 100
Project: 220098
Issue: 7

Number: DD - DR - AR - DA 104

Details
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Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Tomko NSW Reg. 10255.
Nominated Architect: Orlan Cookson NSW Reg. 11726.
Nominated Architect: Laura Cookson NSW Reg. 6360.



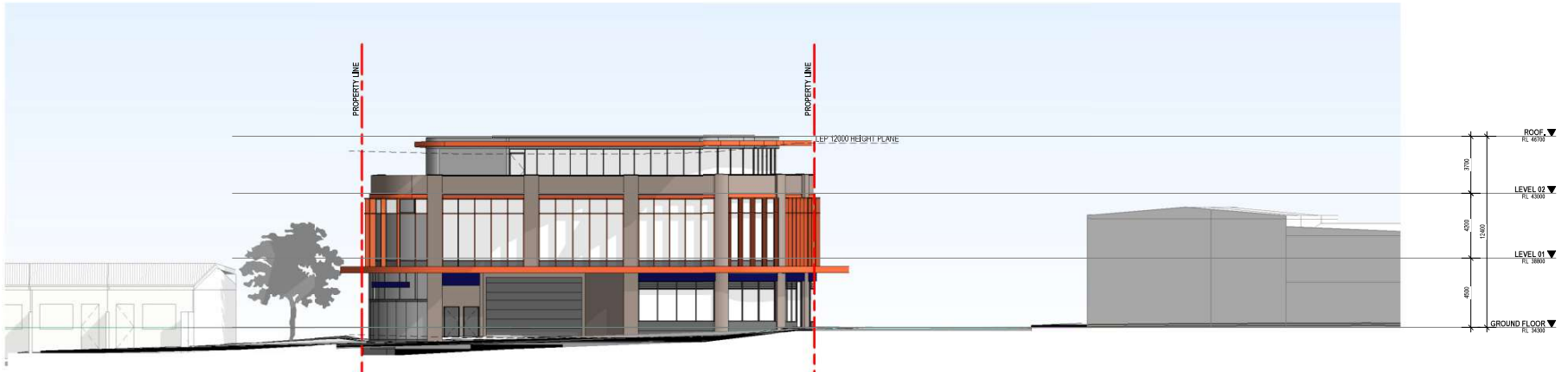
DEVELOPMENT APPROVAL



1 Street Elevation_Cleveland st.
1:150



2 Street Elevation_Cleveland_photomontage
1:150



3 Street Elevation_Marriott st.
1:150

149

REV	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	20.06.23	AC
2	ISSUED FOR INFORMATION	20.05.24	AC
3	ISSUED TO COUNCIL	07.23.24	AC
4	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
STREET ELEVATIONS

A1 Scale **1 : 150**
Project **220098**
Issue **4**

Number **DD - DR - AR - DA 150**

Details
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Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Toole NSW Reg. 10255,
Nominated Architect: Gillian Condon NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360.



DEVELOPMENT APPROVAL



FINISHES LEGEND

ABBREV.	DESCRIPTION
BRK	ASSORTED RED BRICK
CFP	CEMENT FINISH PANNELLING
CN	CONCRETE
DB	DISTRIBUTION BOARD
DBF	HAWA VARETEC GLAZED BI-FOLD DOORS OR EQUIVALENT
DP	DOWNPIPE
FRZ	FROSTED GLASS FINISH
GAF	GLAZING ALUMINIUM FRAME - BLACK
GCB	COLOUR BACKED OPAQUE EXTERNAL GLAZING-GREY
GLE	EXTERNAL GLAZING
LS	SWITCH LIGHT
MCP	METAL FINISH CAPPING TO MATCH GAF
MFC	METAL FINISH CLADDING
MFP	METAL FINISH PROFILES TO MATCH MFC
MLV	METAL LIVOIRES COLOUR TO MATCH GAF
PCF	PAINTED COLOR TO MATCH CFP
PGC	PAINTED COLOR TO MATCH GAF
PLD	PERFORATED PANEL LIFT DOOR
RFC	RIBBED PRECAST CONCRETE PANEL
TLG	TILING

SIGNAGE LEGEND

ABBREV.	DESCRIPTION
S1	5050 X 530 MM ILLUMINATED SIGN ZONE
S2	4800 X 530 MM ILLUMINATED SIGN ZONE
S3	3350 X 530 MM ILLUMINATED SIGN ZONE
S6	1500 X 350 MM ILLUMINATED HARPER SIGN
S7	2500 X 900 MM ILLUMINATED HARPER SIGN

1 DA NORTH ELEVATION
1:150

150

Revision

REV	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	30.06.23	AC
2	ISSUED TO COUNCIL	14.11.23	AC
3	ISSUED FOR INFORMATION	29.02.24	AC
4	ISSUED TO COUNCIL	07.03.24	AC
5	ISSUED TO COUNCIL	12.04.24	AC
6	ISSUED TO CONSULTANT	02.05.24	JN
7	ISSUED TO COUNCIL	15.05.24	AC



Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

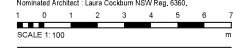
Drawing
NORTH & SOUTH ELEVATION

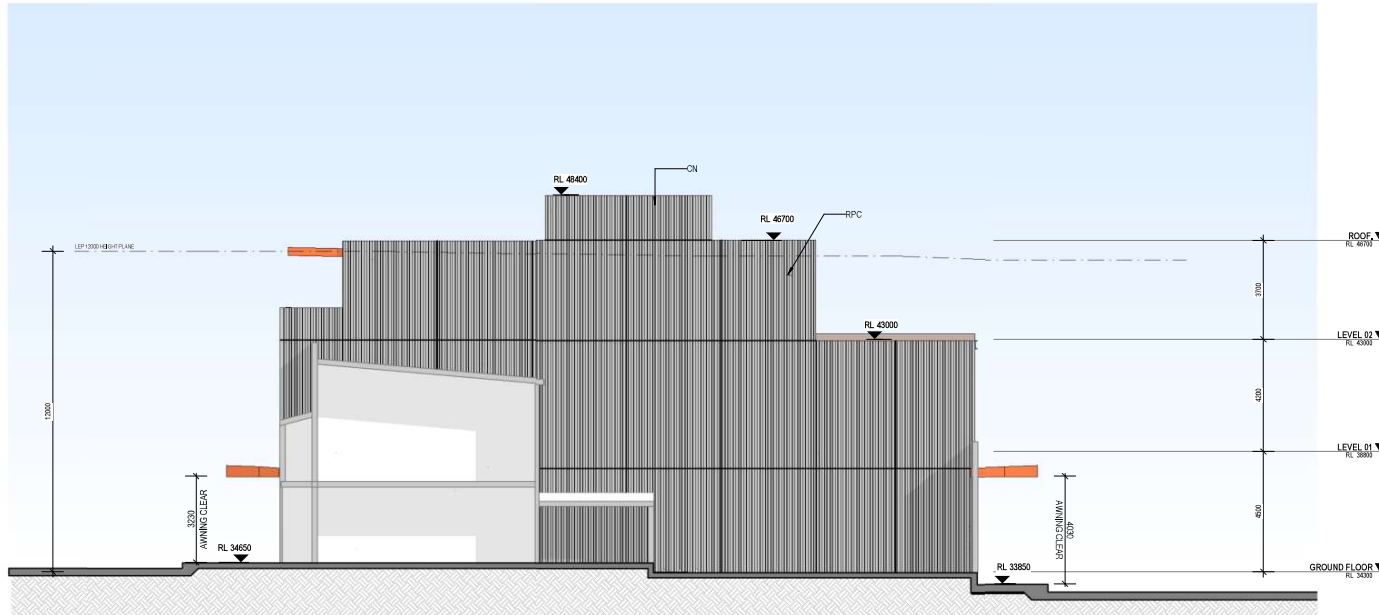
A1 Scale: 1:100
Project: 220098
Issue: 7

Number DD - DR - AR - DA 200

Details
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Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Tomko NSW Reg. 10255.
Nominated Architect: Gillian Cookson NSW Reg. 11726.
Nominated Architect: Laura Cookburn NSW Reg. 6360.

2 DA SOUTH ELEVATION
1:150





FINISHES LEGEND

ABBREV	DESCRIPTION
BRK	ASSORTED RED BRICK
CFP	CEMENT FINISH PANELLING
CN	CONCRETE
DB	DISTRIBUTION BOARD
DBF	HAWA VAROTEC GLAZED BI-FOLD DOORS OR EQUIVALENT
DP	DOWNPIPE
FRZ	FROSTED GLASS FINISH
GAF	GLAZING ALUMINIUM FRAME - BLACK
GCB	COLOUR BACKED OPAQUE EXTERNAL GLAZING-GREY
GLE	EXTERNAL GLAZING
LS	SWITCH LIGHT
MCP	METAL FINISH CAPPING TO MATCH GAF
MFC	METAL FINISH CLADDING
MFP	METAL FINISH PROFILES TO MATCH MFC
MLV	METAL LOUVRES COLOUR TO MATCH GAF
PCF	PAINTED COLOUR TO MATCH CFP
PCG	PERFORATED PANEL LIFT DOOR
PLD	PERFORATED PANEL LIFT DOOR
RPC	RIBBED PRECAST CONCRETE PANEL
TLG	TILING

SIGNAGE LEGEND

ABBREV.	DESCRIPTION
S1	5560 X 530 MM ILLUMINATED SIGN ZONE
S2	4800 X 530 MM ILLUMINATED SIGN ZONE
S3	3990 X 530 MM ILLUMINATED SIGN ZONE
S6	1500 X 350 MM ILLUMINATED HARPER SIGN
S7	2500 X 900 MM ILLUMINATED HARPER SIGN

Revision	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	30.06.23	AC
2	ISSUED TO COUNCIL	14.11.23	AC
3	ISSUED FOR INFORMATION	29.02.24	AC
4	ISSUED TO COUNCIL	07.03.24	AC
5	ISSUED TO COUNCIL	12.04.24	AC
6	ISSUED TO CONSULTANT	02.05.24	JN
7	ISSUED TO COUNCIL	15.05.24	AC

3 DA WEST ELEVATION
1:100



Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
EAST & WEST ELEVATION

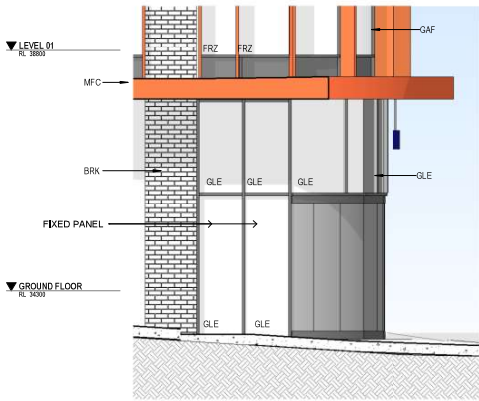
A1 Scale: 1 : 100
Project: 220098
Issue: 7

Number: DD - DR - AR - DA 201

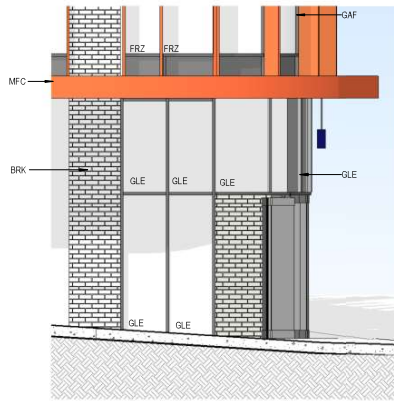
Details
Copyright Conrad Gargett. A/CN 558 450 373 A/BM 51 638 465 375
Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Toole NSW Reg. 10255,
Nominated Architect: Gillian Cookson NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360.

SCALE 1:100

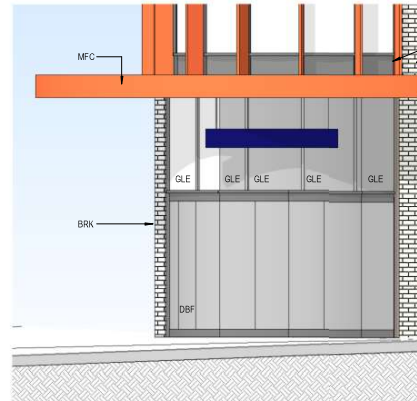
4 DA EAST ELEVATION - SQUARE
1:100



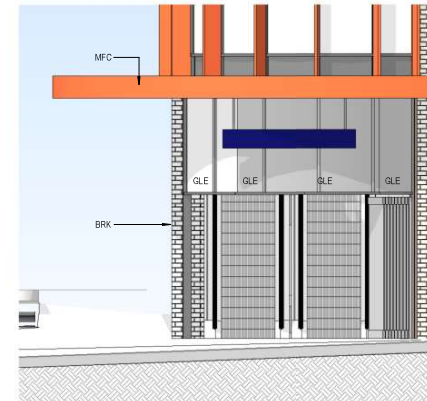
3 SOUTH ELEVATION (CLOSED)
1:50



4 SOUTH ELEVATION (OPEN)
1:50



5 EAST ELEVATION (CLOSED)
1:50

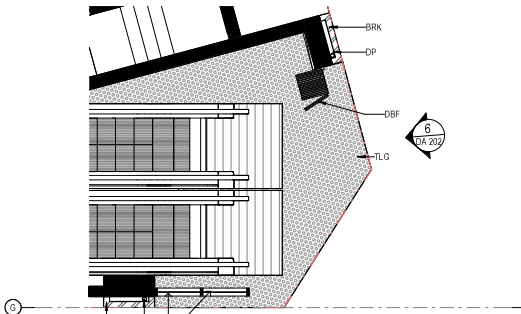


6 EAST ELEVATION (OPEN)
1:50

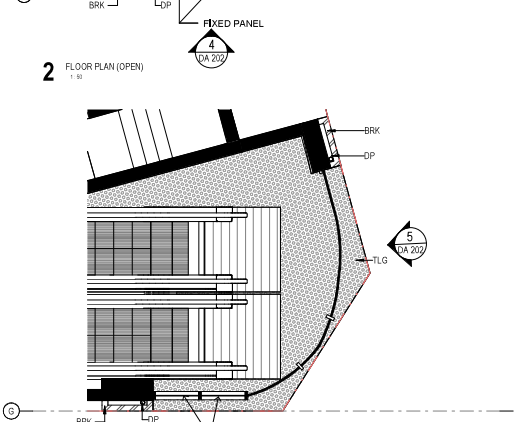
FINISHES LEGEND

BRK	ASSORTED RED BRICK
CFP	CEMENT FINISH PANNELLING
ON	CONCRETE
DB	DISTRIBUTION BOARD
DBF	HANNA VARIOTEC GLAZED BI-FOLD DOORS OR EQUIVALENT
DP	DOWNPIPE
FRZ	FROSTED GLASS FINISH
GAF	GLAZING ALUMINIUM FRAME - BLACK
GCS	COLOR BACKED OPAQUE EXTERNAL GLAZING-GREY
GLE	EXTERNAL GLAZING
LS	SWITCH LIGHT
MCP	METAL FINISH CAPPING TO MATCH GAF
MFC	METAL FINISH CLADDING
MFP	METAL FINISH PROFILES TO MATCH MFC
MLV	METAL LOUVRES COLOR TO MATCH GAF
PCF	PAINTED COLOR TO MATCH CFP
PGD	PAINTED COLOUR TO MATCH GAF
PLD	PERFORATED PANEL LIFT DOOR
RPC	RIBBED PRECAST CONCRETE PANEL
TLG	TILING

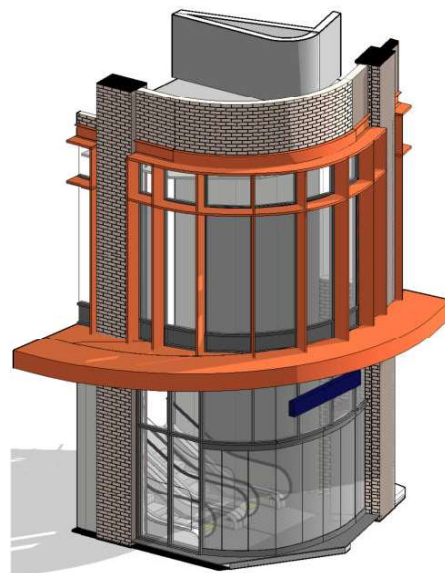
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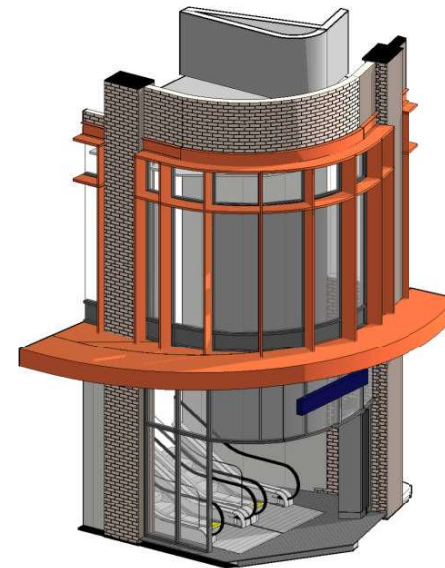
2 FLOOR PLAN (OPEN)
1:50



1 FLOOR PLAN (CLOSED)
1:50



7 ORTHOGONAL VIEW (CLOSED)



8 ORTHOGONAL VIEW (OPEN)

REV	DESCRIPTION	DATE	APP.
1	ISSUED TO COUNCIL	12.04.24	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
ENTRY THRU
ESCALATORS PLANS &
ELEVATION

A1 Scale 1 : 50

Project 220098

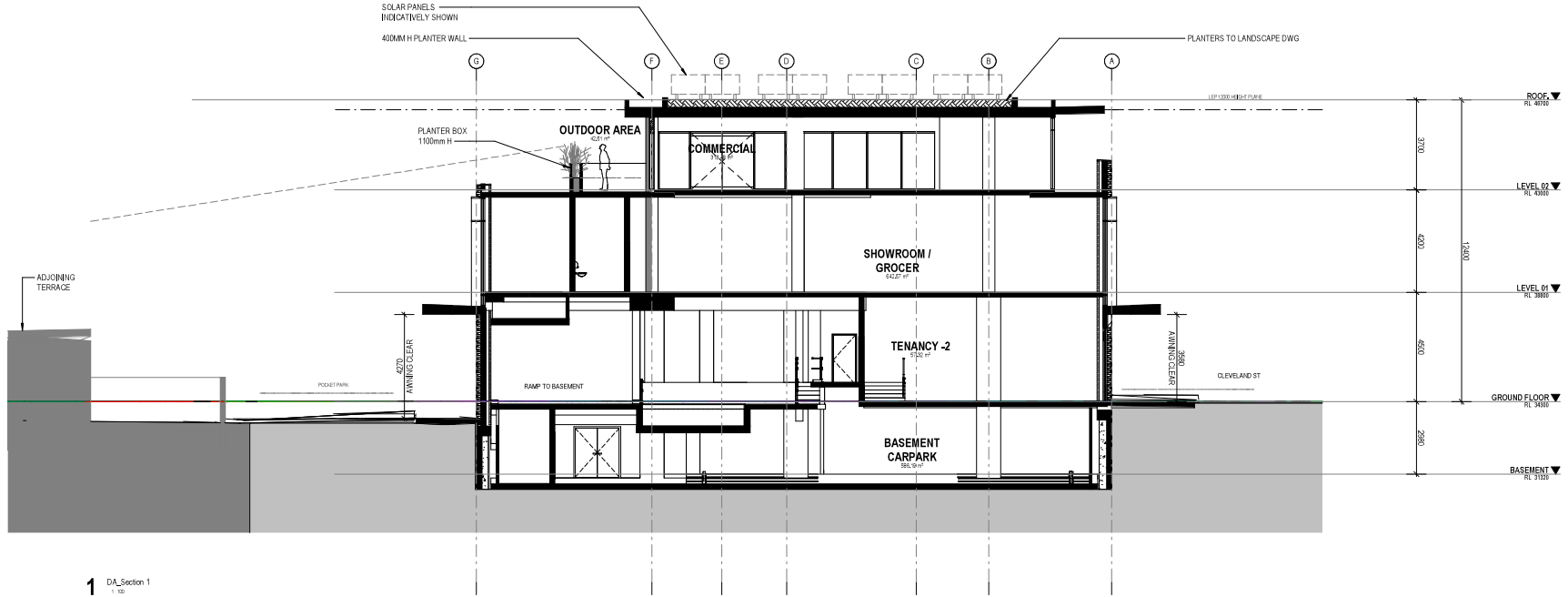
Issue 2

Number DD - DR - AR - DA 202

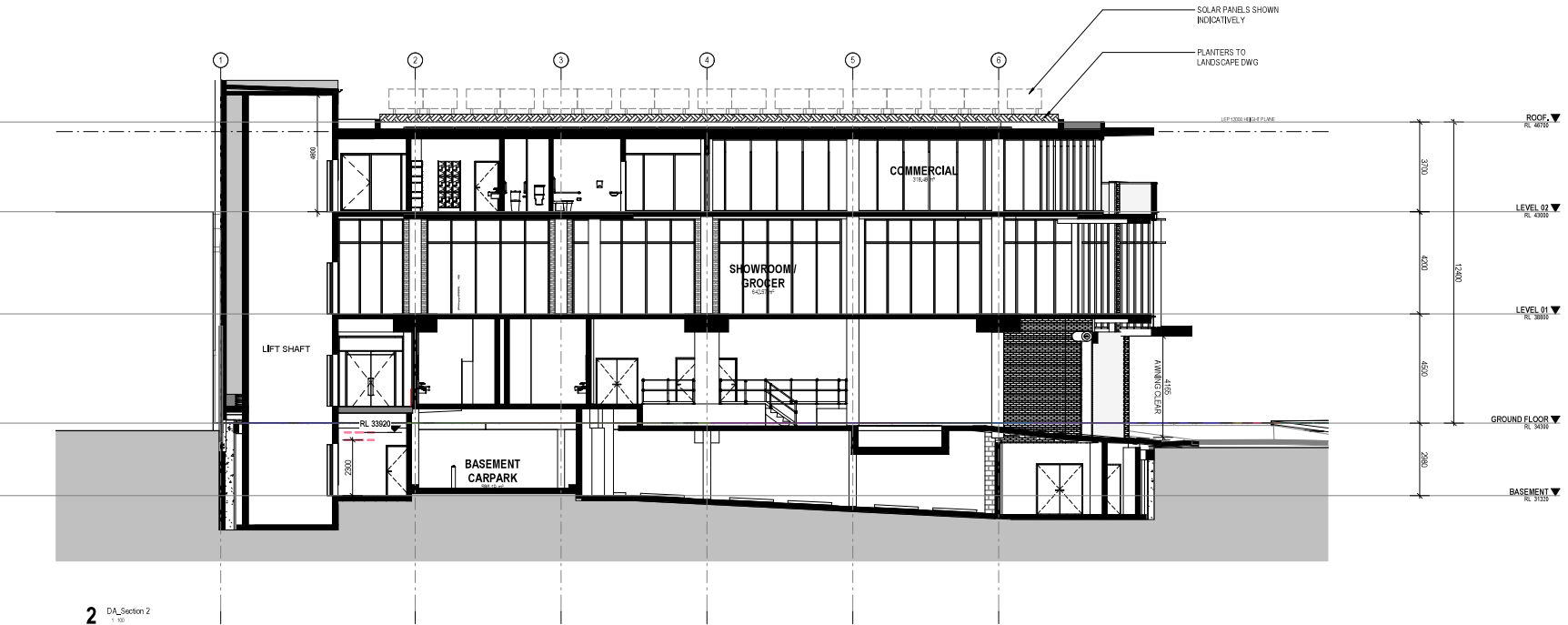
Details
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Nominated Architect: Lawrence Totho NSW Reg. 12950,
Nominated Architect: Brian Dickinson NSW Reg. 11720,
Nominated Architect: Laura Cockburn NSW Reg. 6360.

SCALE 1:50

DEVELOPMENT APPROVAL



1 DA_Section 1
1/10



2 DA_Section 2
1/10

153

REV	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	30.06.23	AC
2	ISSUED TO COUNCIL	07.03.24	AC
3	ISSUED TO COUNCIL	12.04.24	AC
4	ISSUED TO CONSULTANT	02.05.24	JM
5	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

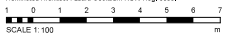
Project
Cleveland St Mixed Use

Drawing
SECTIONS

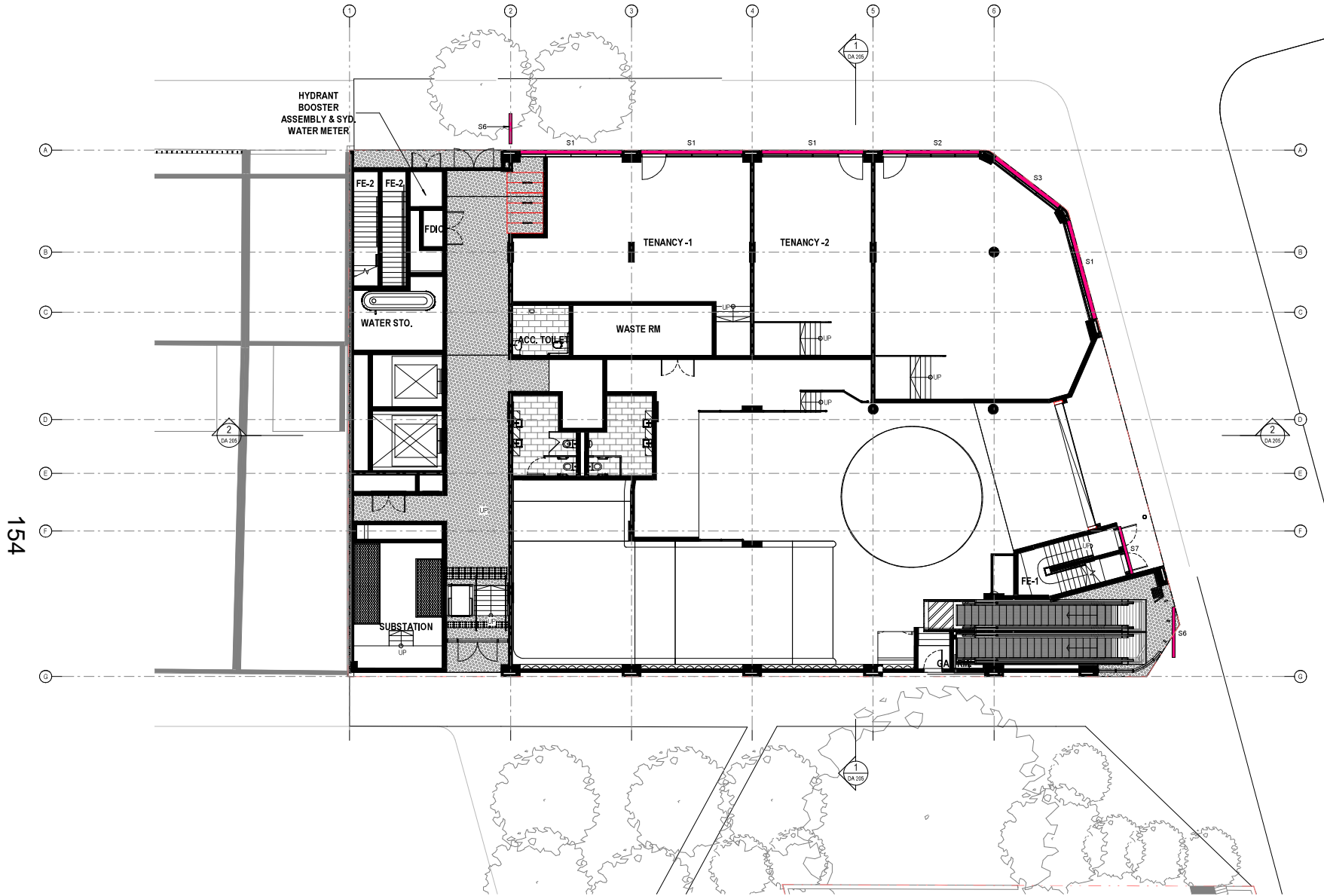
A1 Scale 1 : 100
Project 220098
Issue 5

Number DD - DR - AR - DA 205

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Nominated Architect: Orian Condon NSW Reg. 11739,
Nominated Architect: Laura Cookburn NSW Reg. 6360.



DEVELOPMENT APPROVAL



154

SIGNAGE LEGEND	
ABBREV.	DESCRIPTION
S1	5500 X 530 MM ILLUMINATED SIGN ZONE
S2	4800 X 530 MM ILLUMINATED SIGN ZONE
S3	3900 X 530 MM ILLUMINATED SIGN ZONE
S6	1500 X 350 MM ILLUMINATED HARPER SIGN
S7	2800 X 900 MM ILLUMINATED HARPER SIGN

Revision	DESCRIPTION	DATE	APP.
1	ISSUED FOR DA	30.06.23	AC
2	ISSUED TO COUNCIL	07.04.24	AC
3	ISSUED TO COUNCIL	15.02.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
SIGNAGE PLAN - GROUND FLOOR

A1 Scale: 1 : 100
Project: 220098
Issue: 3

Number DD - DR - AR - DA 310

Details
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Nominated Architect: Lawrence Tomko NSW Reg. 10255,
Nominated Architect: Oliver Condon NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360,



FINISHES LEGEND

ABBREV.	DESCRIPTION
BRK	ASSORTED RED BRICK
CFP	CEMENT FINISH PANNELLING
GAF	GLAZING ALUMINIUM FRAME
GLE	EXTERNAL GLAZING
MFC	METAL FINISH CLADDING
TLG	TLING



155

Revision	REV	DESCRIPTION	DATE	APP.
1	ISSUED TO COUNCIL	07.03.24	AC	
2	ISSUED TO COUNCIL	15.05.24	AC	

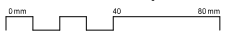
Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
MATERIAL & FINISHES

A1 Scale
Project 220098
Issue 2
Number DD - DR - AR - DA 001

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Notified Architect - Lawrence Toole NSW Reg. 10295,
Notified Architect - Gillian Davidson NSW Reg. 11726,
Notified Architect - Laura Cockburn NSW Reg. 6360.



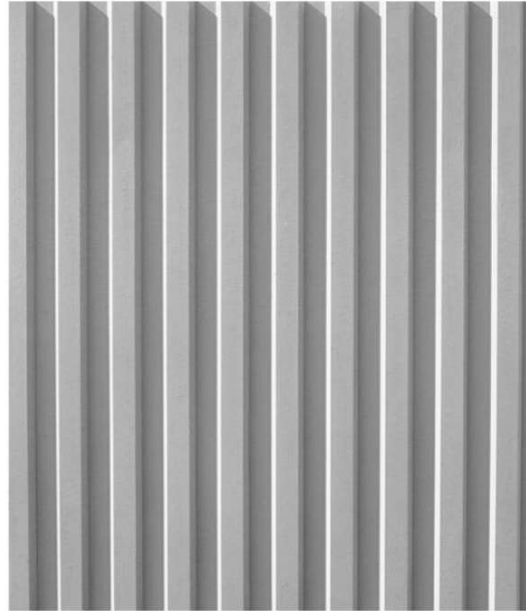
DEVELOPMENT APPROVAL

FINISHES LEGEND

BRK	ASSORTED RED BRICK
CFP	CEMENT FINISH PANELLING
CON	CONCRETE
DB	DISTRIBUTION BOARD
DBF	HAWA VARIOTEC GLAZED BI-FOLD DOORS OR EQUIVALENT
DP	DOWNPIPE
FRZ	FROSTED GLASS FINISH
GAF	GLAZING ALUMINIUM FRAME - BLACK
GCB	COLOUR BACKED OPAQUE EXTERNAL GLAZING-GREY
GLE	EXTERNAL GLAZING
LS	SWITCH LIGHT
MCP	METAL FINISH CAPPING TO MATCH GAF
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MLV	METAL LOUVRES COLOUR TO MATCH GAF
PCF	PAINTED COLOR TO MATCH CFP
POG	PAINTED COLOUR TO MATCH GAF
PLD	PERFORATED PANEL LIFT DOOR
RPC	REBbed PRECAST CONCRETE PANEL
TIG	TIILING



PLD



RBC



DBF

REV	DESCRIPTION	DATE	APP.
1	ISSUED TO CONSULTANT	02.05.24	JM
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

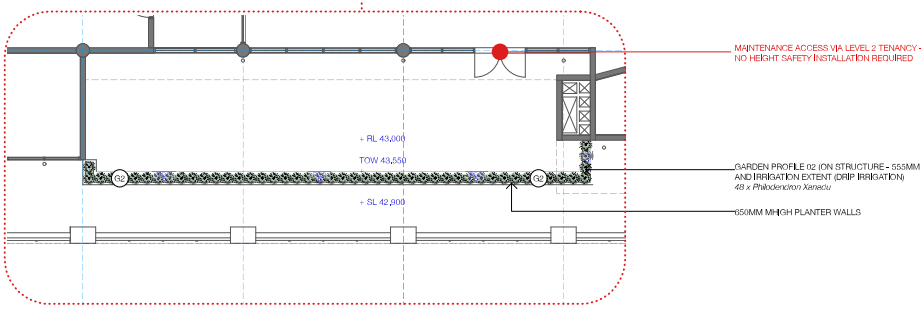
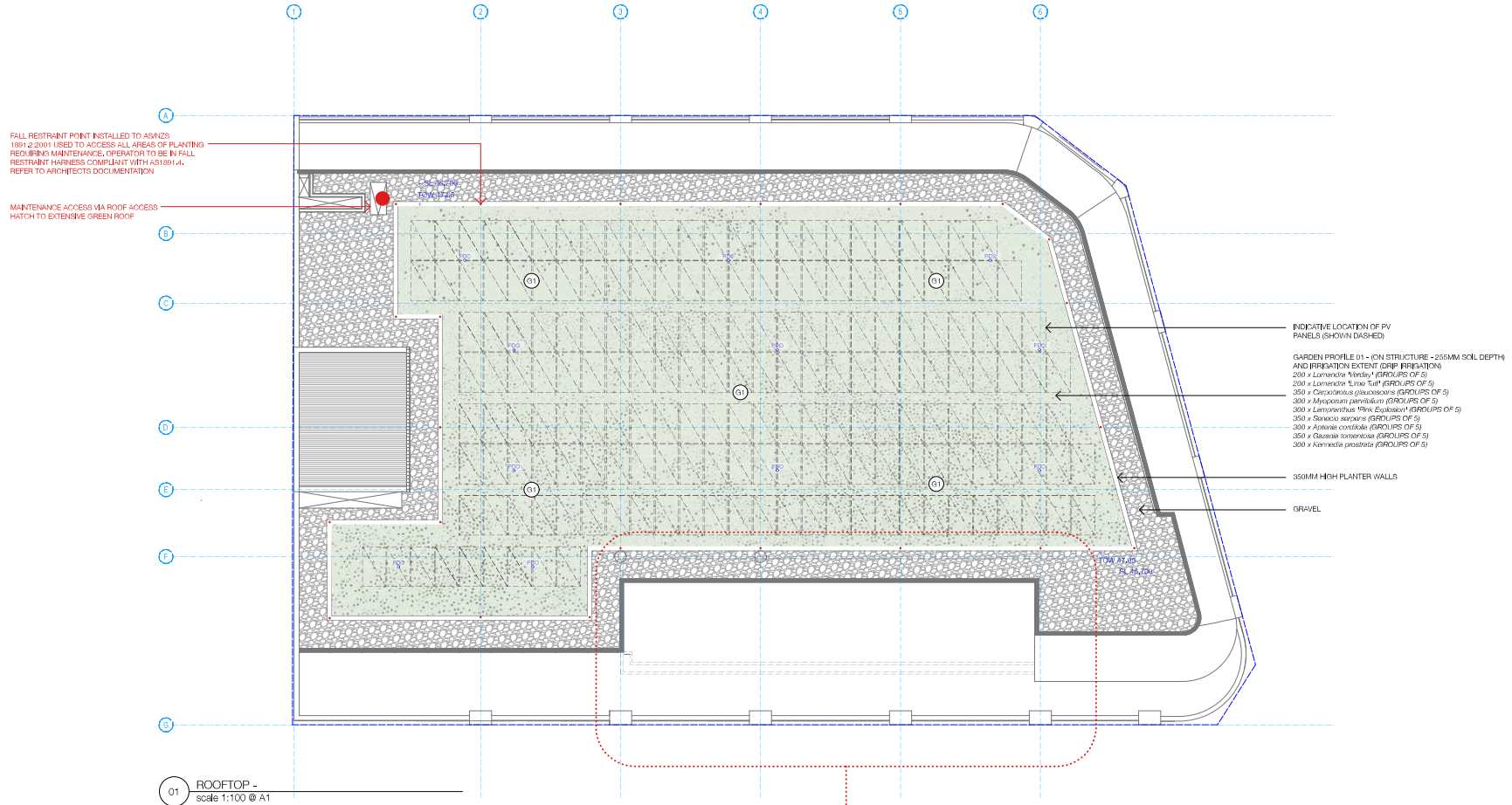
Drawing
**MATERIAL FINISHES
EXAMPLE**

A1 Scale
Project 220098
Issue 2
Number DD - DR - AR - DA 002

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Nominated Architect: Gillian Condonson NSW Reg. 11726.
Nominated Architect: Laura Cookburn NSW Reg. 6360.
SCALE 1:1



PRELIMINARY



GREEN WASTE REMOVAL
 ALL GREEN WASTE GENERATED BY THE MAINTENANCE WORK SHALL BE CONTAINED WITHIN THE IMMEDIATE WORK AREA, AND SHALL NOT LEAK INTO ADJACENT AREAS, OR OUTSIDE THE SITE. ALL DEBRIS SHALL BE CONTAINED AND REMOVED FROM SITE (W/ LEFT) TO AN APPROVED CERTIFIED TIPPING AND LEGAL RECYCLING DEPOT LOCATION USING SUITABLE CLOSED WASTE CONTAINERS AND VEHICLES.

NOT FOR CONSTRUCTION

REV:	DATE:	DOCUMENT STATUS/ AMENDMENTS
01	01.03.24	FOR DA - RESPONSE TO COUNCIL

REFER TO LALP02 FOR NOTES AND PLANT SCHEDULE

1:100 @ A1
0 1 2 5 7.5M



black beetle
 Landscape Architecture and Design

Black Beetle Pty Ltd
 Level 1, 1073 Pittwater Road, Collaroy NSW 2097
 Tel: 0422 104 416
 email: blackbeetle@blackbeetle.com.au

PROJECT	Drawn	IK / GB	Client
Commercial Development 375 - 387 Cleveland Street SURRY HILLS, NSW	L	K / GB	STASIA Pty Ltd
	Scale:	1:100 @ A1	Status: For DA
DRAWING TITLE Landscape Plan - Level 2 and Rooftop	JOB NUMBER: BB 1341	DRAWING NUMBER - ISSUE: LA LP 01 / 01	

LEGEND

- BOUNDARY LINE
- GARDEN PROFILE 01 - GARDEN ON STRUCTURE - 255MM SOIL DEPTHS AND IRRIGATION EXTENT (DRIP IRRIGATION) - REFER TO LANDSCAPE PLANS
- GARDEN PROFILE 02 - GARDEN ON STRUCTURE - 555MM SOIL DEPTHS AND IRRIGATION EXTENT (DRIP IRRIGATION) - REFER TO LANDSCAPE PLANS
- RL 43.000 FINISHED LEVEL
- SL 42.00 STRUCTURAL SLAB LEVEL
- TOW 46.00 TOP OF WALL
- PS PLANTER DRAINAGE OUTLET

NOTES

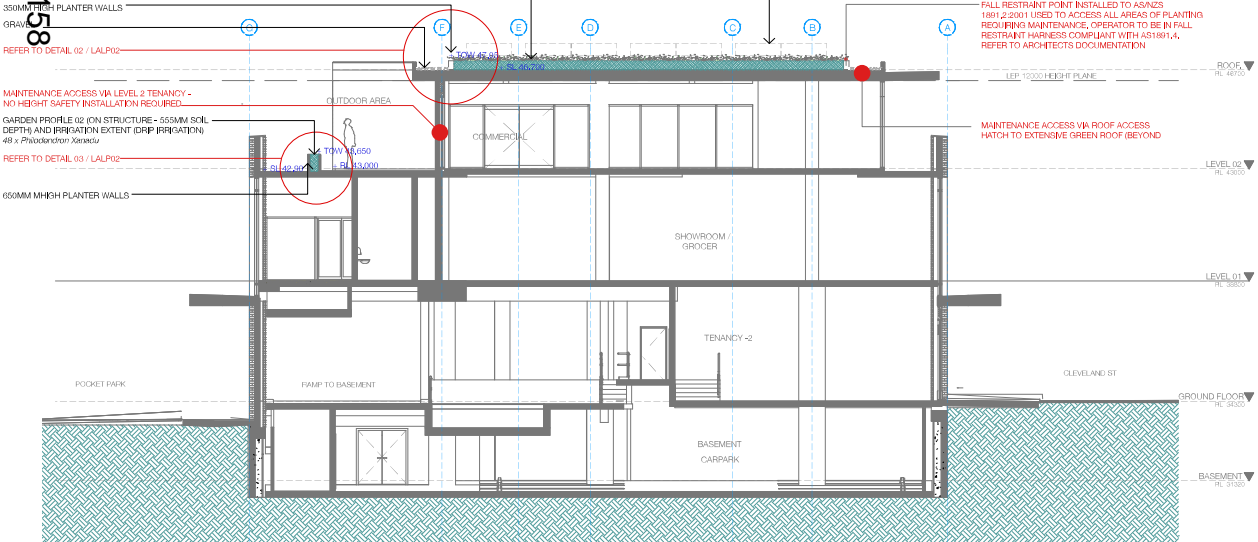
1. DRAWINGS TO BE READ IN CONJUNCTION WITH ARCHITECTURAL AND ENGINEERING DRAWINGS, NOTE ALL LANDSCAPE HARDWORKS INCLUDING PAVING, STEPS, RETAINING WALLS AND FENCES TO ARCHITECTS DOCUMENTATION AND DETAILS.
2. ALL PLANTING AREAS TO BE MULCHED, TYPICALLY 75MM DEPTH, ORGANIC MULCH TO CONFORM TO AS 4454-2012 COMPOST, SOIL CONDITIONERS AND MULCHES.
3. SOILS TO CONFORM TO AS 4419-2018 SOILS FOR LANDSCAPING AND GARDENS USE.
 - ON STRUCTURE 255 - 355MM SOIL DEPTHS
4. ALL PLANTING AREAS TO HAVE DRIP IRRIGATION SYSTEM WITH BACK UP PROTECTION TO THE MAIN SUPPLY, TO ALL CURRENT SYDNEY WATERS REQUIREMENTS AND RELEVANT AUSTRALIAN STANDARDS.
5. MAINTAIN ALL WORKS DURING THE CONTRACT PERIOD FOR 52 WEEKS FROM THE DATE OF PRACTICAL COMPLETION INCLUDING, BUT NOT LIMITED TO WATERING, WEEDING, RUBBISH REMOVAL, REPLACEMENT PLANTING, DISEASE AND PEST CONTROL, PRUNING, SOIL AND MULCH CONTROL REINSTATEMENT.
6. GREEN WASTE REMOVAL - ALL GREEN WASTE GENERATED BY THE MAINTENANCE WORK SHALL BE CONTAINED WITHIN THE IMMEDIATE WORK AREA, AND SHALL NOT LEAK INTO ADJACENT AREAS, OR OUTSIDE THE SITE. ALL DEBRIS SHALL BE CONTAINED AND REMOVED FROM SITE TO AN APPROVED CERTIFIED TIPPING AND LEGAL RECYCLING DEPOT LOCATION USING SUITABLE CLOSED WASTE CONTAINERS AND VEHICLES.

PLANT SCHEDULE

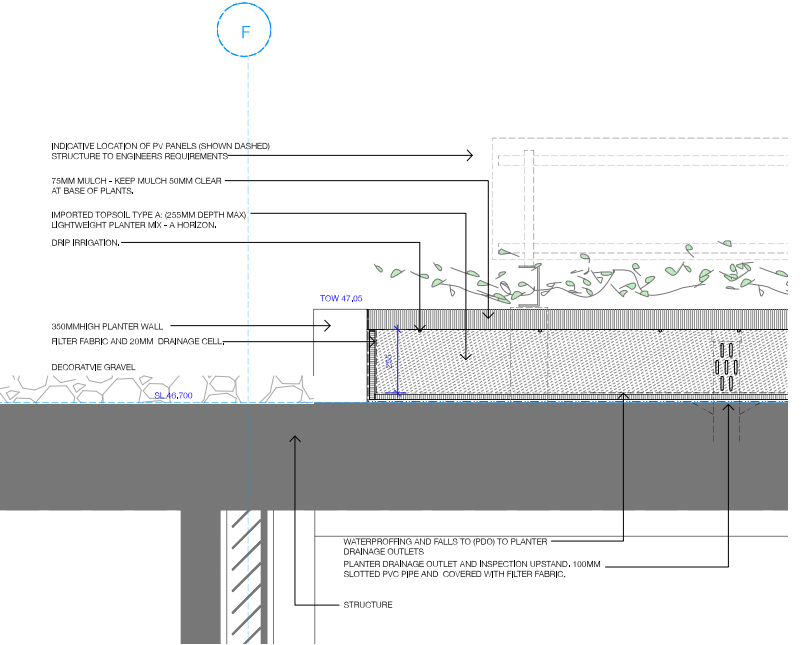
BOTANICAL NAME	COMMON NAME	HEIGHT	POT SIZE	QUANTITIES
SHRUBS AND GROUNDCOVERS				
<i>Azalea corallina</i>	Sun Rose	0.2M	150MM	300
<i>Campobasis pilosus</i>	Pig Face	0.2M	150MM	350
<i>Gazania hartwegii</i>	Gazania	0.2M	150MM	350
<i>Kalanchoe crotanifera</i>	Flamingo Plant	0.1M	150MM	300
<i>Lamproanthus Pink Embosser</i>	Pink Embosser	0.1M	150MM	300
<i>Lomandra 'Luna Tui'</i>	Luna Tui	0.2M	150MM	200
<i>Lomandra 'Virens'</i>	Virens	0.2M	150MM	200
<i>Myoporum laetifolium 'Mystique'</i>	Yareana Crossing Bookbelle	0.1M	150MM	300
<i>Phacelia 'Mystique'</i>	Mystique Phacelia	0.2M	200MM	48
<i>Stachys serotina</i>	Blue Chalk Sticks	0.1M	150MM	300



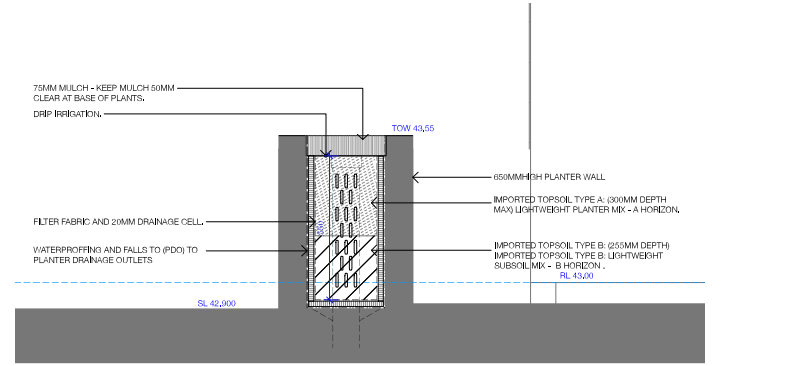
GARDEN PROFILE 01 - (ON STRUCTURE - 255MM SOIL DEPTH AND IRRIGATION EXTENT (DRIP IRRIGATION) - 200 x Lomandra 'Mystique' (GROUPS OF 5)
 200 x Lomandra 'Luna Tui' (GROUPS OF 5)
 300 x *Campobasis pilosus* (GROUPS OF 5)
 300 x *Myoporum laetifolium* (GROUPS OF 5)
 300 x *Lamproanthus Pink Embosser* (GROUPS OF 5)
 300 x *Kalanchoe crotanifera* (GROUPS OF 5)
 300 x *Azalea corallina* (GROUPS OF 5)
 350 x *Gazania hartwegii* (GROUPS OF 5)
 300 x *Kalanchoe crotanifera* (GROUPS OF 5)



01 SECTION AA
Scale: 1:100 @ A1



02 GARDEN PROFILE 01
Scale: 1:10 @ A1



03 GARDEN PROFILE 02
Scale: 1:10 @ A1

REV.	DATE:	DOCUMENT STATUS/ AMENDMENTS
01	01.03.24	FOR DA - RESPONSE TO COUNCIL

black beetle
Landscape Architecture and Design

Black Beetle Pty Ltd
Level 1, 1073 Pittwater Road, Collaroy NSW 2097
Tel: 0422 104 416
email: blackbeetle@blackbeetle.com.au

PROJECT
Commercial Development
375 - 387 Cleveland Street
SURRY HILLS, NSW

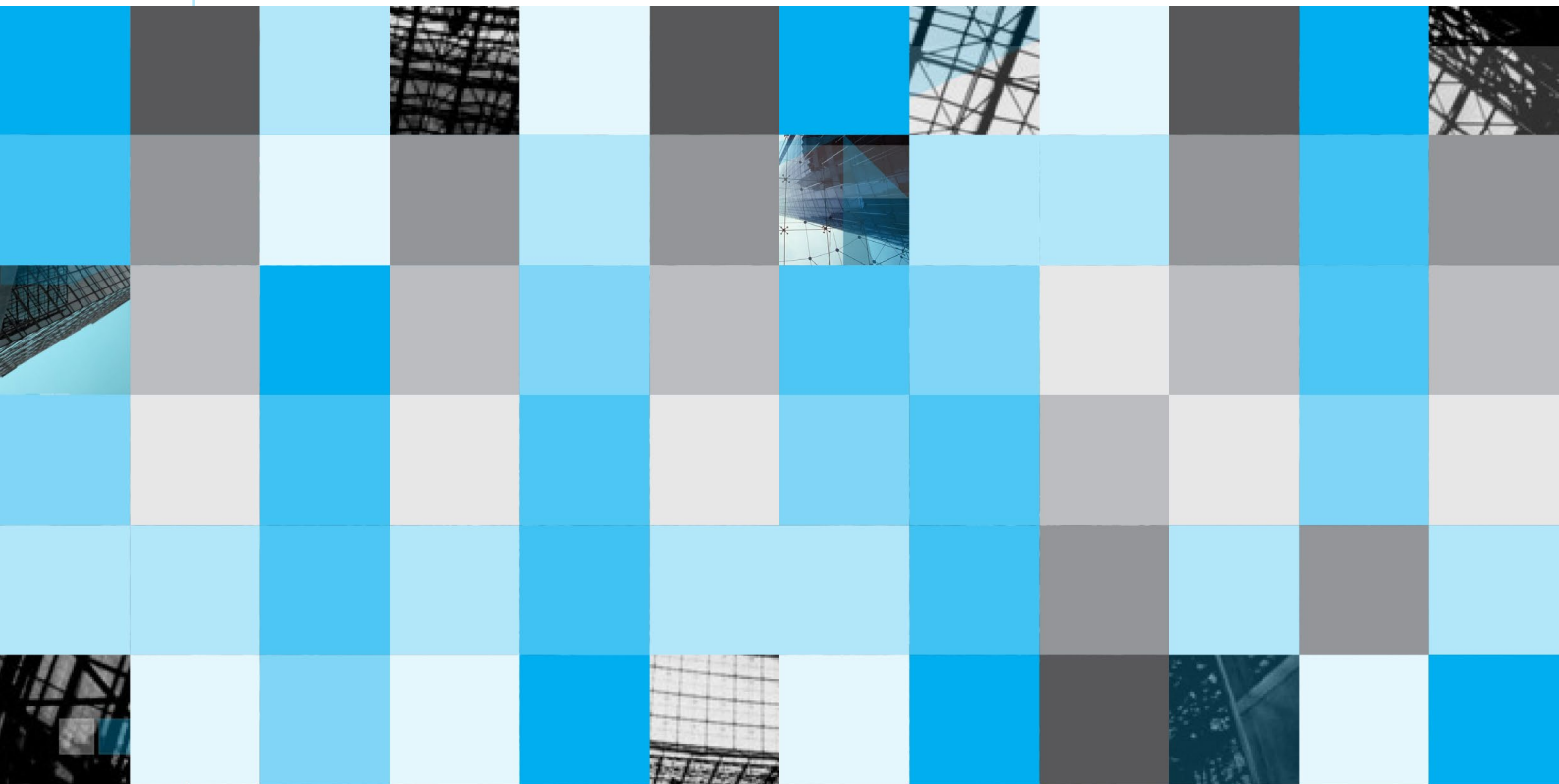
DRAWING TITLE
Legend / Notes / Plant Schedule / Details

Drawn IK / GB	Client STASIA Pty Ltd
Architected IK / GB	Status For DA
Scale As shown @ A1	Job Number BB 1341
	Drawing Number LA LP 02/ 01

NOT FOR CONSTRUCTION

Attachment C

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



375 – 387 Cleveland Street, Redfern

Clause 4.6 – Building Height Development Standard

Clause 4.6 – Building Height Development Standard

375 – 387 CLEVELAND STREET, REDFERN

June 2024

Prepared under instructions from
[Stasia Property](#)

by

[Aaron Sutherland](#)
B Town Planning UNSW

aaron@sutherlandplanning.com.au
Tel: 0410 452 371
PO BOX 812 BOWRAL NSW 2576

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1.0 CLAUSE 4.6 REQUEST – BUILDING HEIGHT

1.1 Introduction

This request for an exception to a development standard is submitted in respect of the height of buildings development standard contained within Clause 4.3 of the Sydney Local Environmental Plan 2012 (SLEP). The request relates to a Development Application for the demolition of existing structures and the erection of a 3 storey commercial building above a single basement level at 375-387 Cleveland Street, Redfern.

The proposed new building will provide 3 new retail tenancies at ground floor which will activate the street edges, a single retail floorplate on the first floor which is intended to be occupied for a small supermarket, and a single office tenancy on the second floor with outdoor terrace area.

1.2 Clause 4.6 Exceptions to development standards

Clause 4.6(2) of the Sydney Local Environmental Plan 2012 provides that development consent may be granted for development even though the development would contravene a development standard imposed by the Sydney Local Environmental Plan 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) 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 buildings development standard be varied.

1.3 Development Standard to be varied

Clause 4.3 states:

- (1) The objectives of this clause are as follows:
 - (a) to ensure the height of development is appropriate to the condition of the site and its context,
 - (b) to ensure appropriate height transitions between new development and heritage items and buildings in heritage conservation areas or special character areas,
 - (c) to promote the sharing of views,
 - (d) to ensure appropriate height transitions from Central Sydney and Green Square Town Centre to adjoining areas,
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Building height (or height of building) is defined as the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The maximum height shown for the land on the Map for the site to which the proposed building relates is 12 metres, as shown in Figure 1.

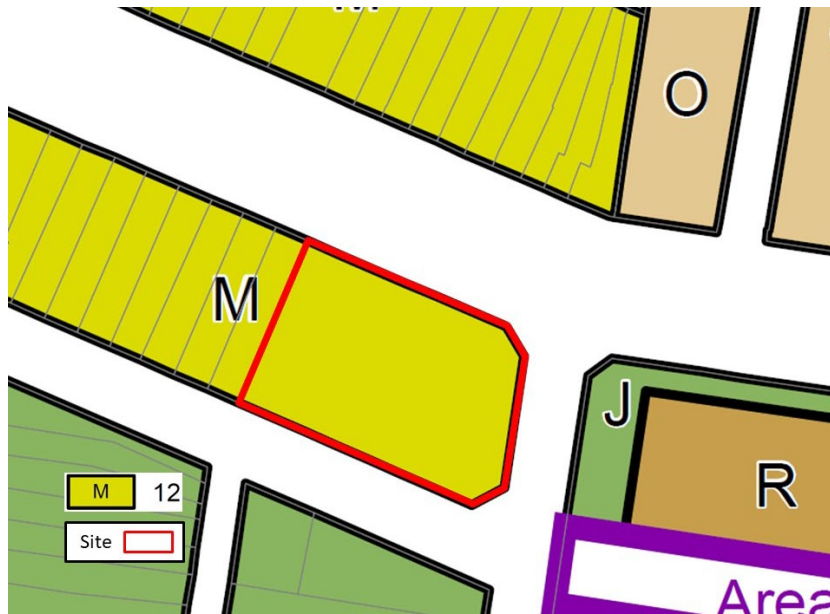


Figure 1:

Extract from the SLEP
Height of Buildings
Map

1.4 Extent of Variation to the Development Standard

The roof height plan prepared by Architectus Conrad Gargett (with exception below) illustrates that whilst the parapet of the building around the site is below the height control, the roof of the building marginally exceeds the height control, with a maximum height of 13.3 metres at the south-eastern corner which is a 1.3 metre or 10.8% variation. The lift overrun also exceeds the 12 metre height control, with a maximum height of 14.3 metres which is a 2.3 metre or 19.1% variation.

These elements are illustrated in the 3D height plane diagram in Figure 2 below. A comparison of the proposed heights against the development standard applicable to the site is illustrated below:

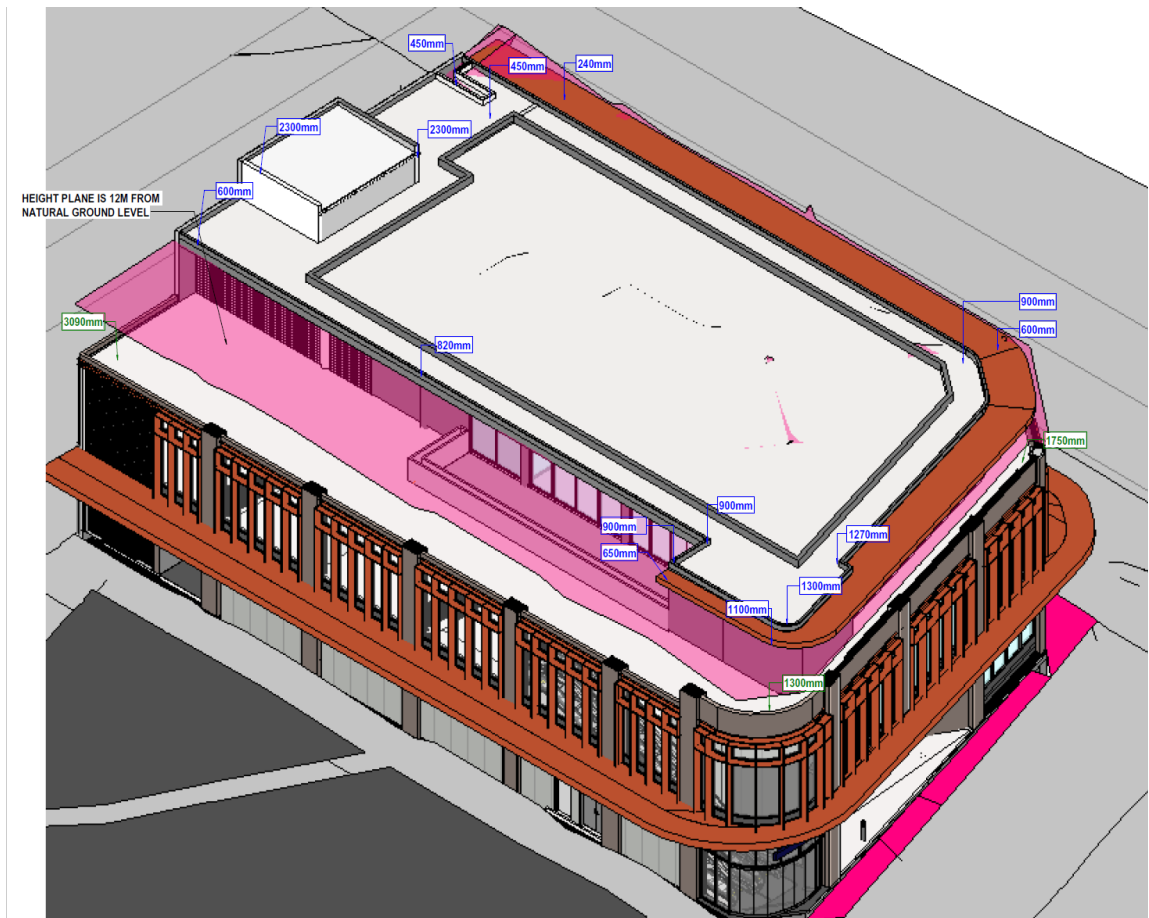


Figure 2:

Height plane drawing which illustrates the components which are above the height control

1.5 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 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 addition, in the matter of *Randwick City Council v Mical Holdings Pty Ltd* [2016] NSWLEC 7 [34] the Chief Justice held that “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”.

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;

The specific objectives of the building height development standard, as specified in clause 4.3 of the Sydney Local Environmental Plan 2012 are identified below. A comment on the proposal’s consistency with each objective is also provided.

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

The proposal is 3 storeys in height as anticipated by the DCP for the site, and is therefore broadly appropriate to the condition of the site and its context. However, as a result of the commercial uses in the building instead of residential, the required floor to floor heights result in a minor variation to the height control.

In order to mitigate the impact of the height variation and to achieve a more appropriate contextual design response, the development has been designed with a two storey base with a masonry grid which is proportioned as an interpretation of the fine grain vertical pattern of the immediately adjacent row of terraces. The top floor, which comprises the elements which exceed the height control, is set back from the levels below and proposed with a predominantly glazed wall with fine window detailing and a light weight projecting roof element to float above the base of the building. This achieves a recessive termination for the top of the building. The expressed scale of the street wall as 2 storeys is a sympathetic response to the context of the site.

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

The proposal is located within a heritage conservation area and the development provides a design response which specifically acknowledges the adjacent contributory items by providing a lower two storey street wall which achieves an appropriate transition in scale between this new development and the context of the site.

(c) to promote the sharing of views,

The proposed development will not impact on any scenic or iconic views.

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

Not applicable.

2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;

The underlying objectives and purpose of the height control are relevant to the proposed development. However, the proposed development is consistent with those objectives on the basis that the proposed height is compatible with the existing and future scale of the surrounding buildings and will sit comfortably with the context of the site with no significant adverse impacts to adjacent properties.

3. the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;

The underlying objective of the height control is to achieve an appropriate height on the site which is compatible with the emerging context of the site. Due to the design, location and configuration of the

proposed development, it successfully achieves these objectives. Strict compliance with the height control would lead to a less satisfactory outcome as it would negatively impact on the quality of the design and the ability to provide a building which is entirely commercial. Strict compliance would encourage the introduction of residential uses within the upper levels of the development which is not a preferred outcome due to the hostile nature of Cleveland Street. Accordingly, it is considered that strict compliance would likely result in the defeat of the underlying object and purpose of the height control because it would encourage a less desirable outcome for the subject site.

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 historically adopted a relatively flexible approach to the implementation of the height control in circumstances where the objectives of the control are achieved.

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 considered to be reasonable and appropriate.

Strict compliance with the building height development standard is unreasonable and unnecessary in the circumstances of the case in that:

- The proposal is for a 3 storey development as anticipated by the 12 metre height control and compliant with the Sydney DCP 2012 height in storeys control.
- The building is entirely commercial and does not include any residential levels, which requires higher floor to floor heights than anticipated by the height control and results in the height breach. Due to the hostile interface with Cleveland Street, it is preferable to only have commercial uses on the subject site when compared with more sensitive residential uses. It is not possible to reduce the overall height of the development and also achieve the required floor to floor levels for commercial development as required by the Sydney Development Control Plan 2012.
- The perimeter of the development is compliant with the height control. The areas of the top floor which exceed the height control, have been deliberately set back from the edges of the site and are recessive in language which effectively mitigates the visual impact of the proposed height variation.
- The component on the building which exceeds the 12 metre height plane to the greatest extent, being the lift overrun, has been discreetly located centrally within the roof of the building which is well setback from the edges of the building. This component is unlikely to be readily visible from the street or the ground floor plane of surrounding sites. Accordingly, the proposed areas of variation to the height control do not result in any adverse impact to adjacent properties.
- The scale of the development in terms of its three dimensional size will not be perceived as jarring or antipathetic in a streetscape and urban design context.
- The elements of the development which exceed a height of 12 metres do not result in any unreasonable impacts on the amenity of the adjoining properties in terms of loss of solar access, loss of privacy or view loss. In particular, the shadow diagrams which support this application demonstrate the shadow which would be cast by a compliant envelope on the site and the proposed shadow, and it is evident that there is negligible difference between the two shadows. This is largely because the top level has been set back from the edges of the site.

- The locality is undergoing a transition in its character, which is evident from the Surry Hills Village development which is currently under construction directly opposite the site to the east. The proposed variation to the height control is minor and will not result in a building which is inconsistent with the desired future character of development in the zone and locality generally.
- Given that there is no adverse impact in relation to the proposed variation, strict compliance would not result in any benefit to the streetscape or the amenity of the adjoining properties.

As the proposal is consistent with the objectives of the height of buildings control, compliance with the development standard is considered to be unreasonable and unnecessary in the circumstances of the case.

1.6 Clause 4.6(3)(b) Are there are sufficient environmental planning grounds to justify contravening the development standard?

The Land & Environment Court matter of *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 2018, provides assistance in relation to the consideration of sufficient environmental planning grounds whereby Preston J observed that:

- in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and
- there is no basis in Clause 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development

The 12 metre height control for the subject site is intended to work in tandem with a 3 storey height control in the DCP. However, the 12 metre height control in the LEP assumes a shop-top form of development which includes upper level residential uses which have a reduced floor to floor requirement when compared within commercial uses on the upper floors.

The subject site is located adjacent to an especially busy classified road being Cleveland Street and residential development on the subject site does not represent an optimal design outcome due to the adverse amenity outcomes for more sensitive residential use. It is preferable to provide an entirely commercial building on the subject site, however, this requires higher floor to floor heights which challenges the 12 metre height control.

Notwithstanding this environmental planning ground as the basis for the height breach, the proposed development has been designed to mitigate the impact of the overall height of the development. In particular, the proposal has been designed with an expressed two storey base with a masonry grid façade with a height of approximately 10 metres, and the top level is setback from all edges of the building and proposed with a predominantly glazed wall with fine window detailing and a light weight projecting roof element to float above the base of the building. This achieves a recessive termination for the top of the building.

The setback of the top floor, which is the element which exceeds the height control, is such that the proposed development actually results in a reduced shadow when compared with the shadow cast by a strictly height compliant building envelope on the site. This is illustrated in Figures 3, 4 and 5 below.

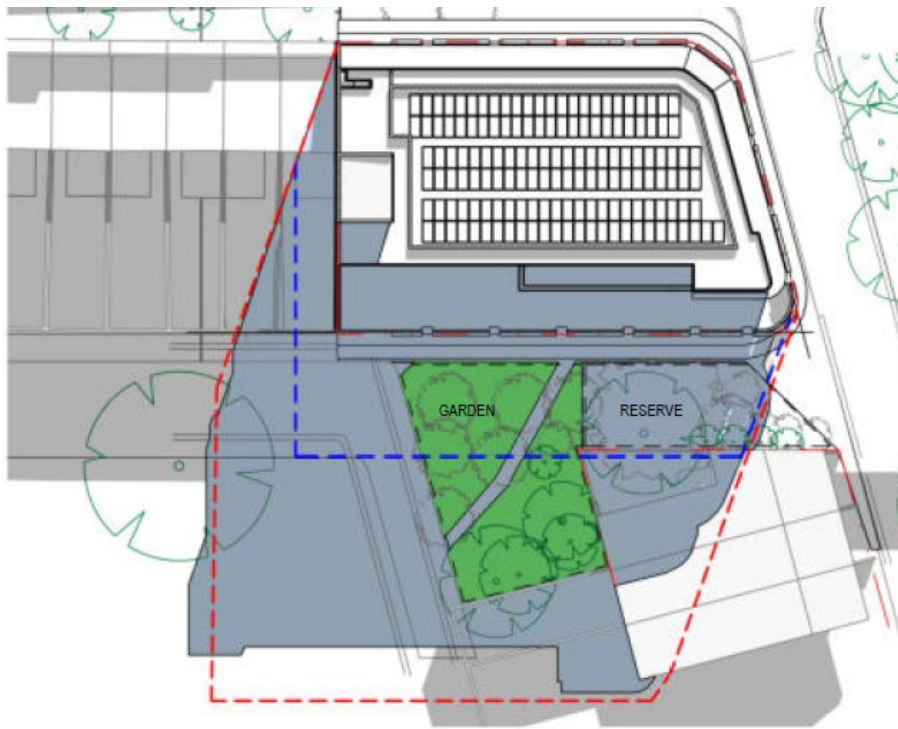


Figure 3:

9am shadow
(red dotted line
is a height
compliant
shadow)

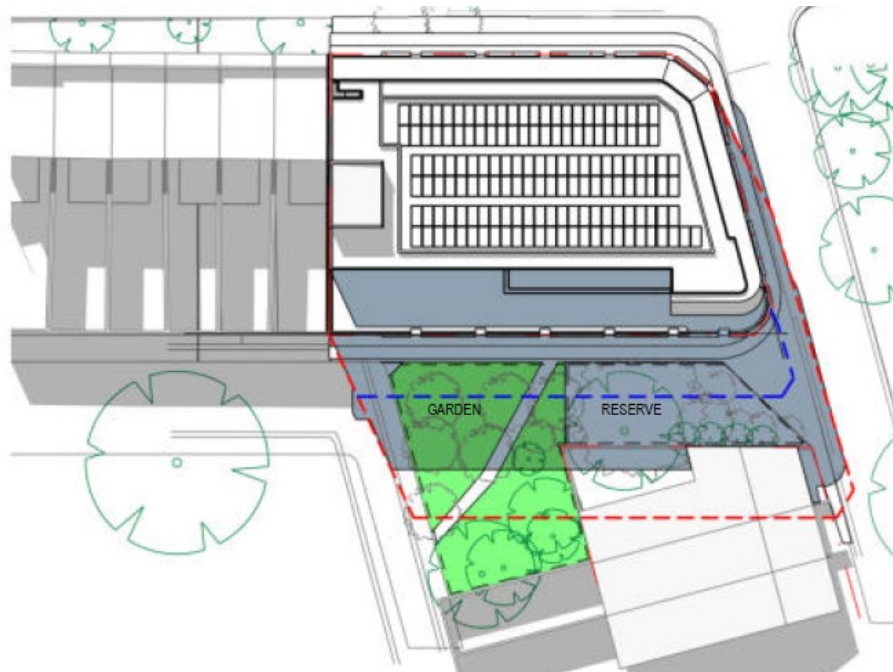


Figure 4:

12pm shadow
(red dotted line
is a height
compliant
shadow)

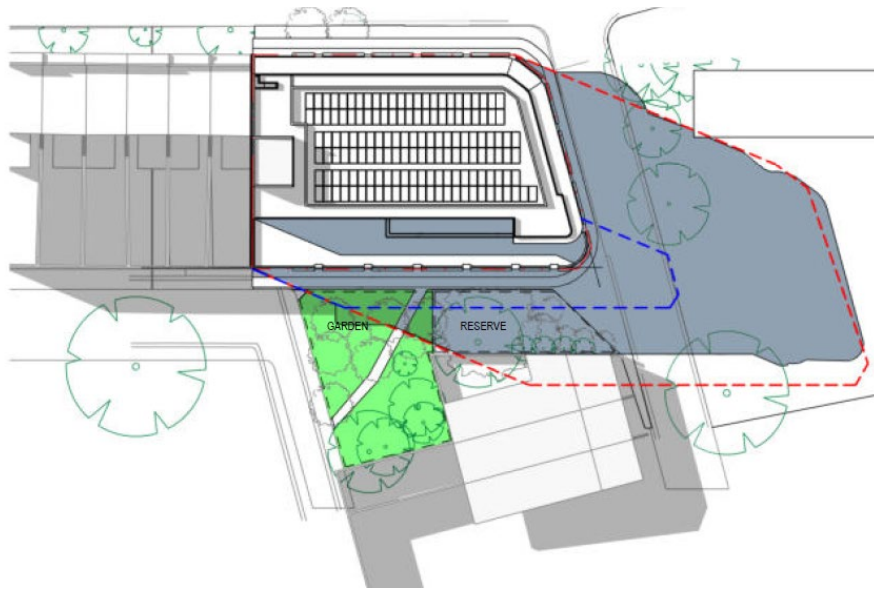


Figure 5:

3pm shadow
(red dotted line
is a height
compliant
shadow)

Due to the particular site circumstances and the design of the subject proposal, the majority of the components which breach the height control will not be dominant when viewed from the public domain or the ground floor plane of the site. Furthermore, the lift overrun which has the greatest extent of breach is set well back within the site with essentially no impact. Accordingly, the proposed areas of variation to the height control do not result in any adverse impact to adjacent properties.

The setback of the elements which breach the height control also prevents any overlooking or privacy impacts to the southern adjacent dwellings. This is illustrated in the view lines in the Section shown in Figure 6 below.

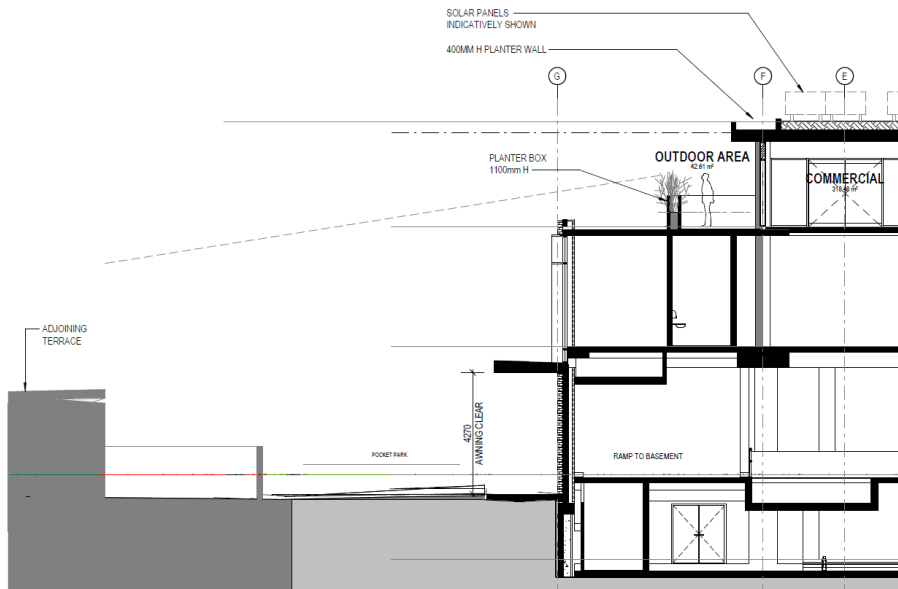


Figure 6:

Section
illustrating
setback top
floor which
prevents
overlooking of
immediately
adjacent
terrace

Having regard to the planning principle established in the matter of Project Venture Developments v Pittwater Council [2005] NSWLEC 191 most observers would not find the proposed development offensive, jarring or unsympathetic to its location and the proposed development will be compatible with its context.

Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public in the particular circumstance of this site and this proposal, but would only serve to encourage the introduction of residential use of the upper levels of the building.

In this particular circumstance there are sufficient environmental planning grounds to warrant the proposed variation to the current height control as the proposal will achieve a superior outcome with an entirely commercial building on the site and without any adverse impact to adjacent sites.

The objects specified in section 5(a)(i) and (ii) of the EP&A Act are:

`to encourage:

i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

ii) the promotion and co-ordination of the orderly and economic use and development of land..’

The proposed development is consistent with the aims of the Policy and the objects of the EP&A Act in that:

- Strict compliance with the development standard would result in an inflexible application of the control that would not deliver any additional benefits to the owners or occupants of the surrounding properties or the general public.
- The proposed variation allows for the most appropriate use of the land, which is also the most efficient and economic use of the land, without adversely impacting on amenity of adjacent sites.

On the basis of the above, it has been demonstrated that there are sufficient environmental planning grounds to justify the proposed height non-compliance in this instance.

1.7 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.

1.8 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 proposal's consistency with the objectives of the development standard have been addressed in detail in this clause 4.6 request.

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 zone pursuant to the SLEP 2012

The objectives of the MU1 Mixed Use zone are:

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.

The proposal provides for a commercial building which will support a diversity of business, retail and office uses which will provide 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.

The proposal has maximised active frontages having regard to the constraints of the site. In particular, the proposal provides a fine grain active retail frontage to Cleveland Street.

- To minimise conflict between land uses within this zone and land uses within adjoining zones.

The proposal has been designed to minimise conflict with nearby residential uses by reducing shadow impacts when compared with a strictly compliant height, and setting back the top floor from the southern edge to mitigate privacy impacts.

- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.

The proposal provides retail uses on the ground floor.

- To ensure land uses support the viability of nearby centres.

The proposal is only for fine grain retail uses and will not threaten 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 proposal integrates business, office and retail uses in an ideal location which will encourage users to walk or cycle.

In summary, the proposed development will support the ongoing use of the site for commercial purposes in an ideal development which will contribute positively to the vibrancy of the location. The proposal also represents a more compatible use with the surrounding context, which has gradually changed to include significantly more residential dwellings. The site is well located to encourage walking and cycling. End of Journey facilities are integrated into the design of the development that will encourage users to walk and cycle. The proposal will support rather than detract from the viability of the nearby centres and will ensure the continuation of employment generating uses on the site. For the reasons given the proposal is considered to be consistent with the objectives of the MU1 zone in that it provides appropriately for a compatible land use.

The above discussion demonstrates that the proposal development will be in the public interest notwithstanding the proposed variation to the building height development standard 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. There is no material public benefit in maintaining the standard generally or in relation to the site specifically as the built form outcomes and development proposed accord with the vision for the area. Accordingly, there is no material impact or public benefit associated with strict adherence to the development standard and there is no compelling reason or public benefit derived from maintenance of the standard.

1.9 Clause 4.6(5) Secretary Considerations

The matters for consideration under Clause 4.6(5) are addressed below:

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

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

The contravention of the standard does not raise any matters of significance for state or regional environmental planning. The development does not impact upon or have implications for any state policies in the locality or impacts which would be considered to be of state or regional significance.

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

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

This Clause 4.6 request has demonstrated there are benefits associated with the contravention of the standard as it will support an entirely commercial use of the site in a building which has been very sensitively designed having regard to the context of the site with an expressed two storey base and setback and recessive top floor which does not result in any meaningful impact beyond a fully height compliant proposal. Accordingly, there is no material public benefit in maintaining the standard generally or in relation to the site specifically as the built form outcomes and development proposed accords with the vision for the area. There is no material impact or benefit associated with strict adherence to the development standard and there is no compelling reason or public benefit derived from maintenance of the standard.

1.10 Objectives of Clause 4.6

The specific objectives of Clause 4.6 are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

As demonstrated above the proposal is consistent with the objectives of the zone and the objectives of Clause 4.3 notwithstanding the proposed variation to the maximum height of buildings development standard.

Requiring strict compliance with the height of buildings development standard on the subject site would result in an inferior use of the site that would contextually be essentially no different from the proposed development and would not result in any meaningful benefit to the streetscape or the amenity of adjoining properties. Strict compliance would discourage an entirely commercial use of the site with residential components likely introduced with compromised amenity outcomes.

Allowing the flexible application of the maximum height of buildings development standard in this instance is not only reasonable but also desirable given the positive result for the amenity of the development.

Accordingly, it is considered that the consent authority can be satisfied that the proposal meets objective 1(a) of Clause 4.6 in that allowing flexibility in relation to the minimum height of buildings development standard and will achieve a better design outcome in this instance in accordance with objective 1(b).

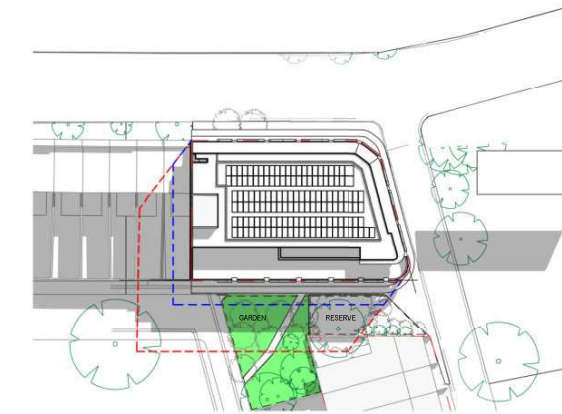
1.11 Conclusion

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 case. In addition, there are sufficient environmental planning grounds to justify the proposed variation. In this regard it is reasonable and appropriate to vary the height of buildings development standard to the extent proposed.

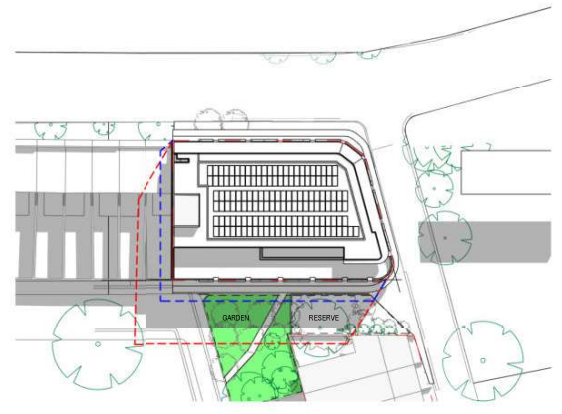
Attachment D

Shadow Analysis and Sun Eye Diagrams

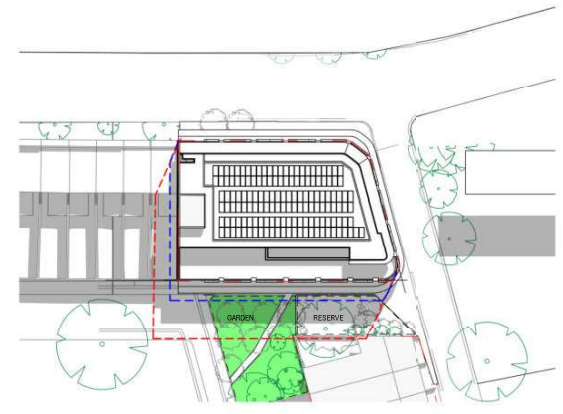
LEGEND:
 - - COMPLIANT 12M HIGH BUILDING ENVELOPE
 - - EXISTING WALL APPROX. 4m HIGH, (HEIGHT TO BE CHECKED ON SITE)



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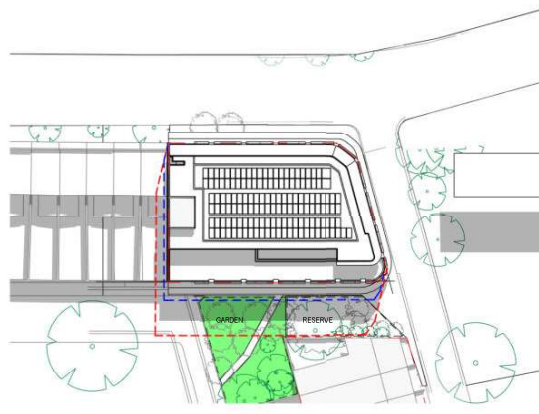


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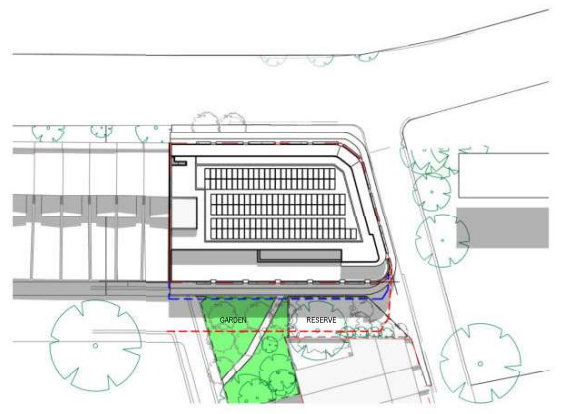


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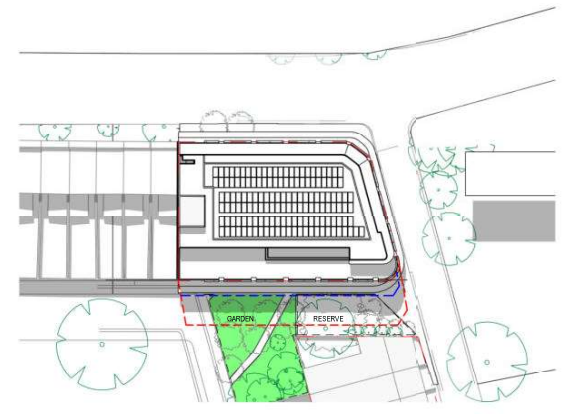
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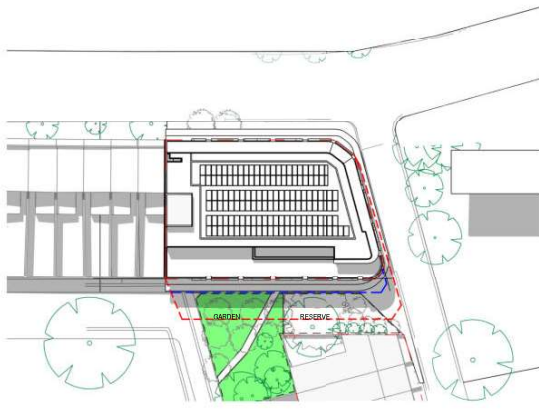
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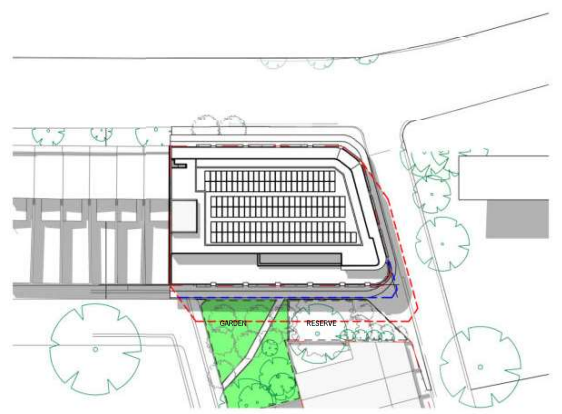
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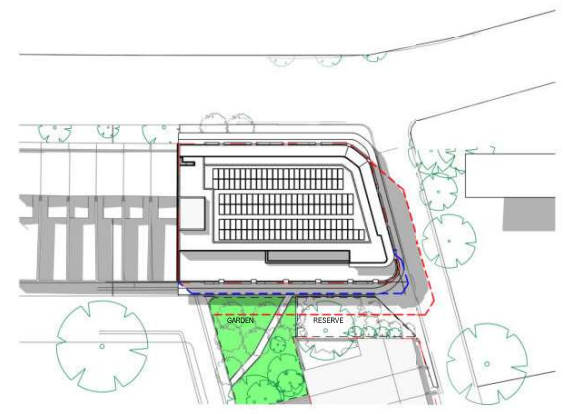
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REV	DESCRIPTION	DATE	APP.
1	ISSUED TO COUNCIL	07.03.24	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
SHADOW DIAGRAMS - EQUINOX

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Project 220098
Issue 2

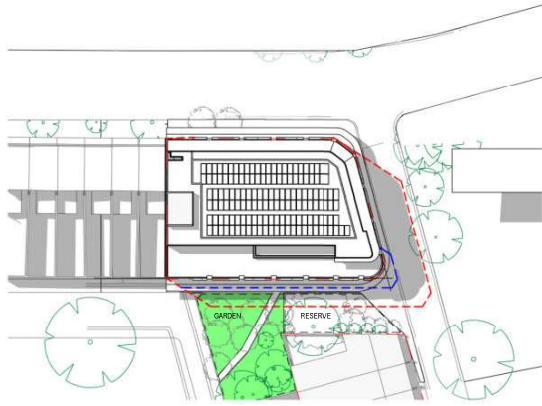
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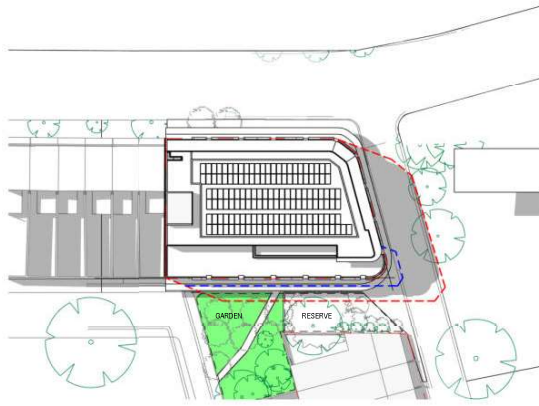


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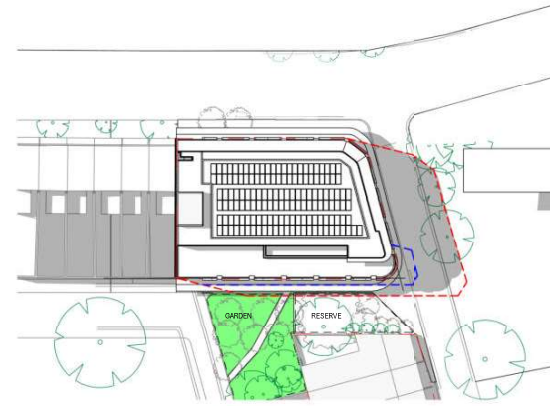




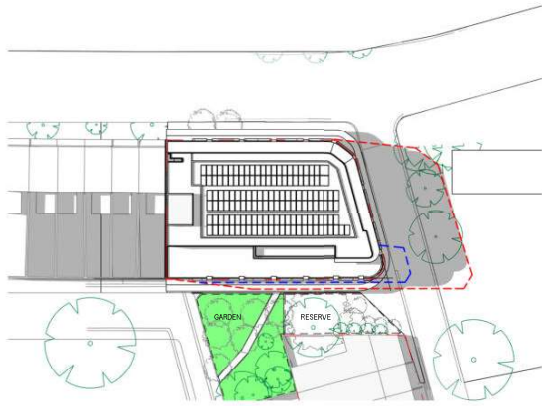
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LEGEND:
 - - - COMPLIANT 12M HIGH BUILDING ENVELOPE
 - - - EXISTING WALL APPROX. 4m HIGH, (HEIGHT TO BE CHECKED ON SITE)

Revision	REV	DESCRIPTION	DATE	APP.
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Client
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Project
Cleveland St Mixed Use

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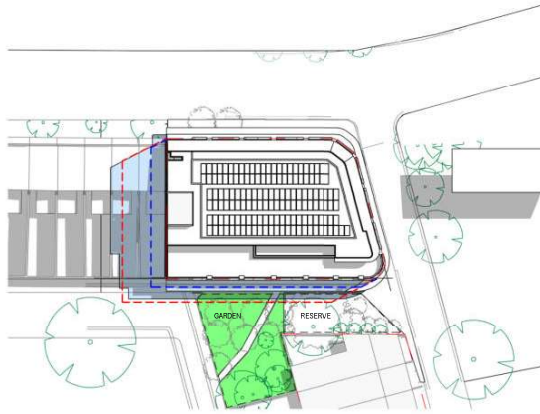
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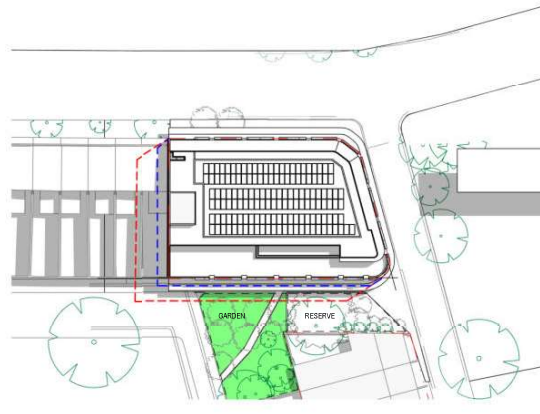
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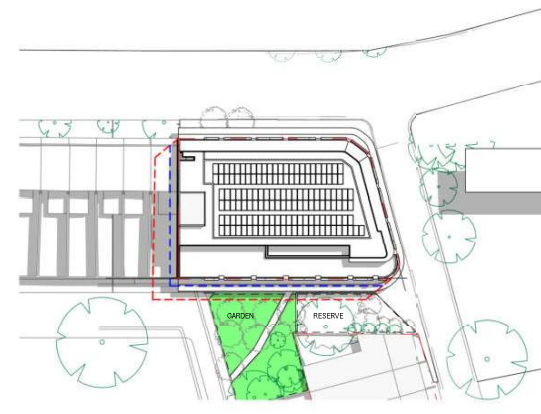
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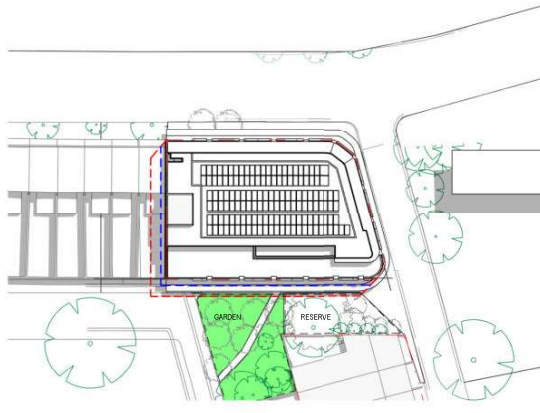
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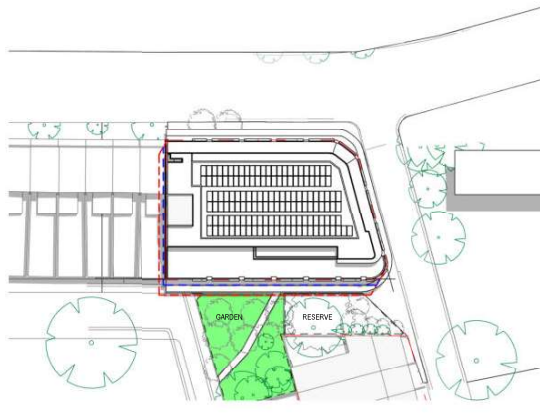
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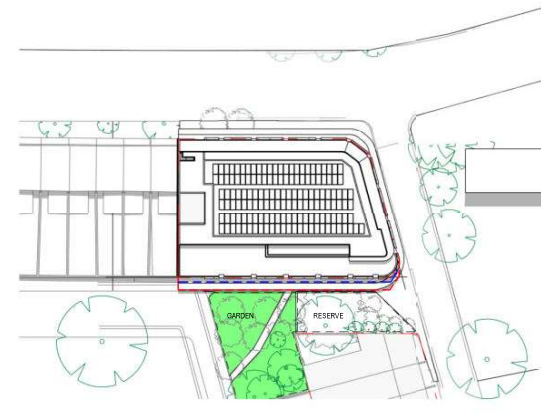
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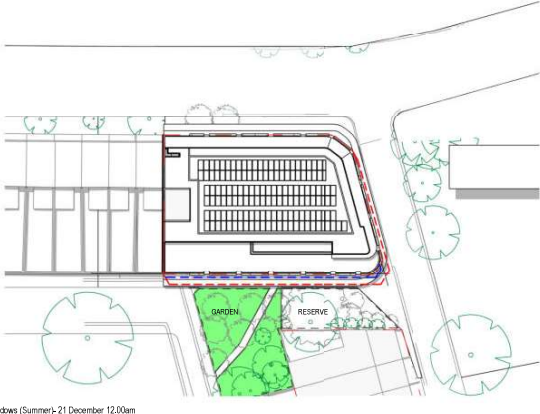
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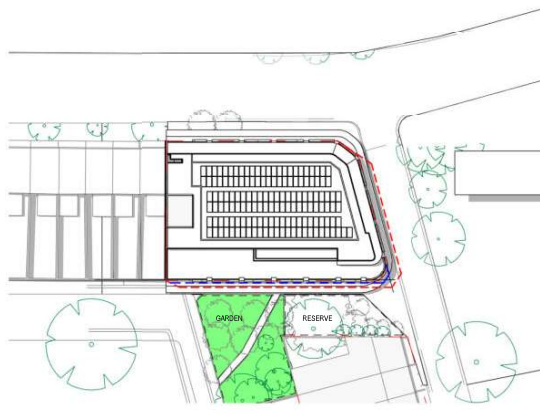
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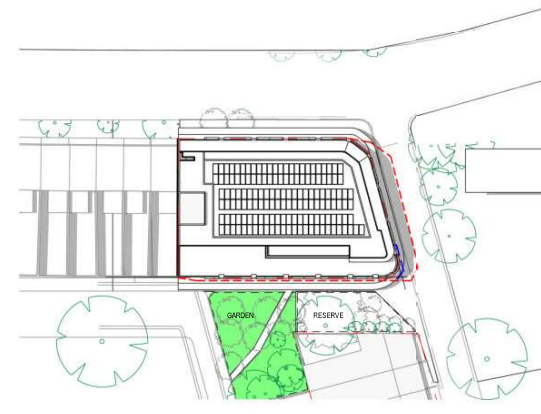
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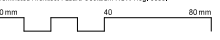
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**SHADOW DIAGRAMS -
SUMMER**

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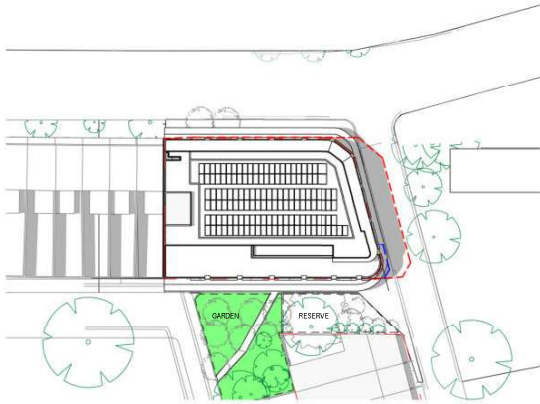


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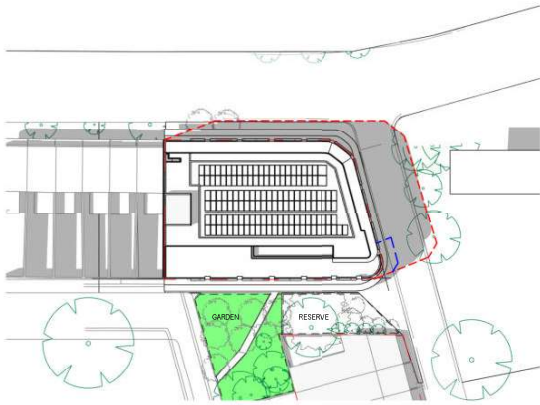
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Revision	REV	DESCRIPTION	DATE	APP.
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2	ISSUED TO COUNCIL		15.05.24	AC

Client
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Project
Cleveland St Mixed Use

Drawing
SHADOW DIAGRAMS -
SUMMER

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Project 220098
Issue 2

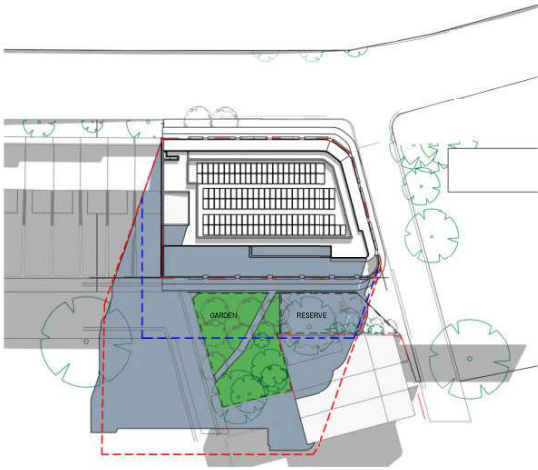
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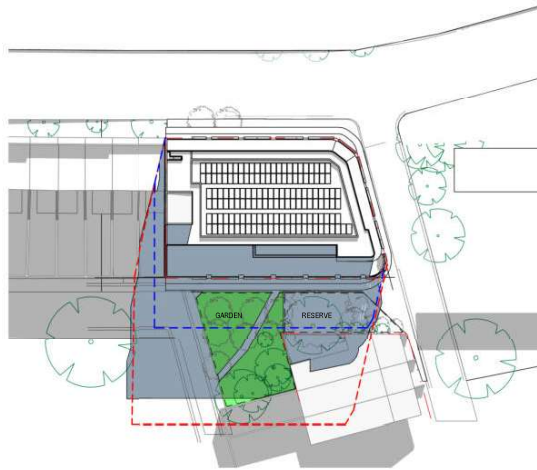


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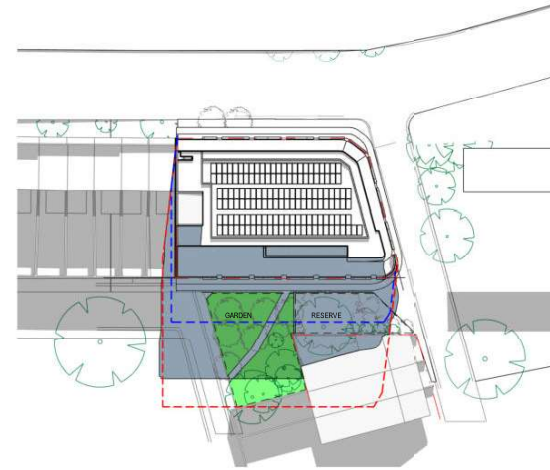
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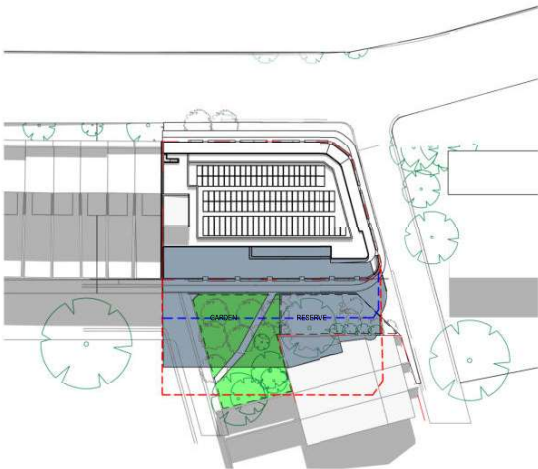
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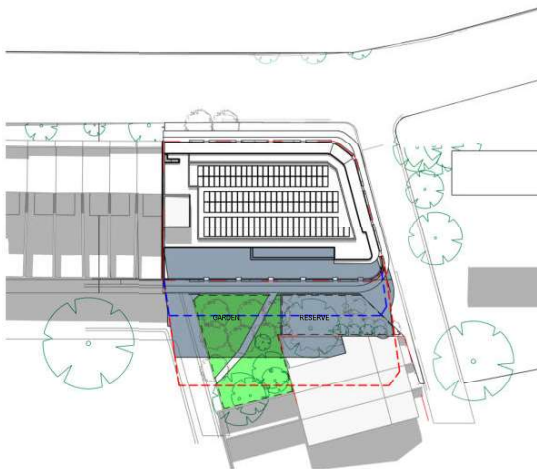
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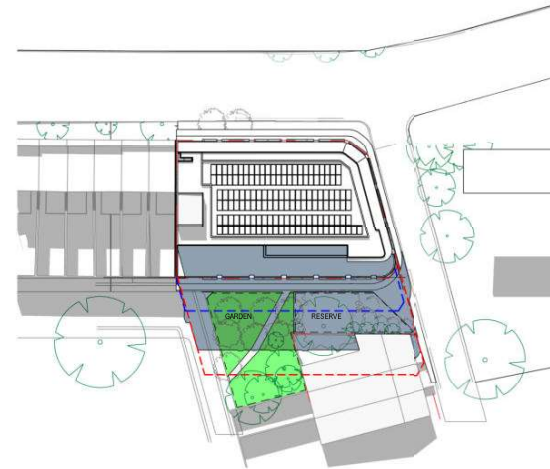
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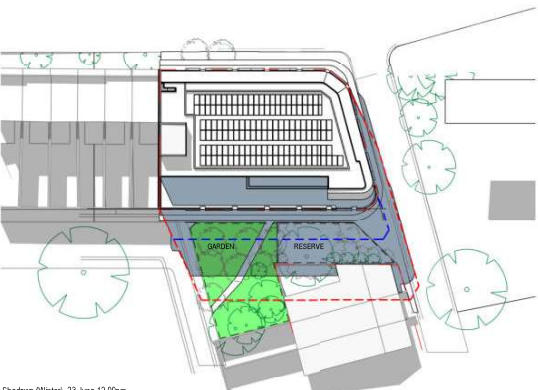
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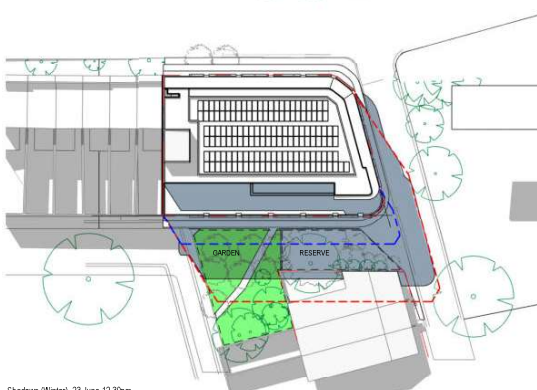
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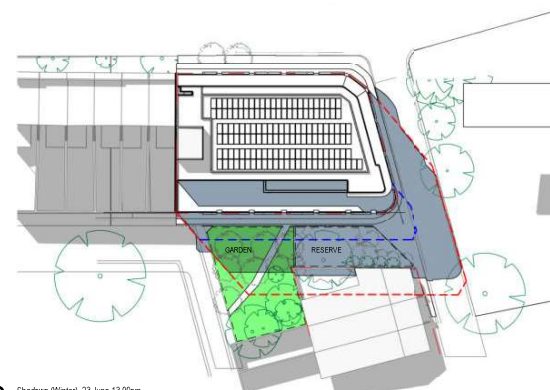
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3	ISSUED TO COUNCIL	15.26.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
SHADOW DIAGRAMS - WINTER

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Project 220098
Issue 3

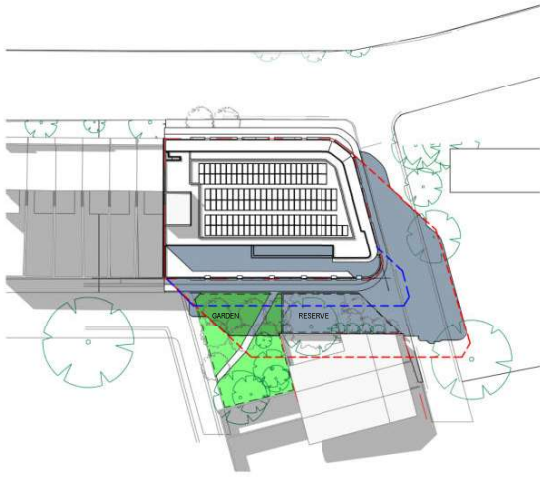
Number DD - DR - AR - DA 322

Details
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Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Tomko NSW Reg. 10255,
Nominated Architect: Orlan Cookson NSW Reg. 11726,
Nominated Architect: Laura Cookson NSW Reg. 6360.

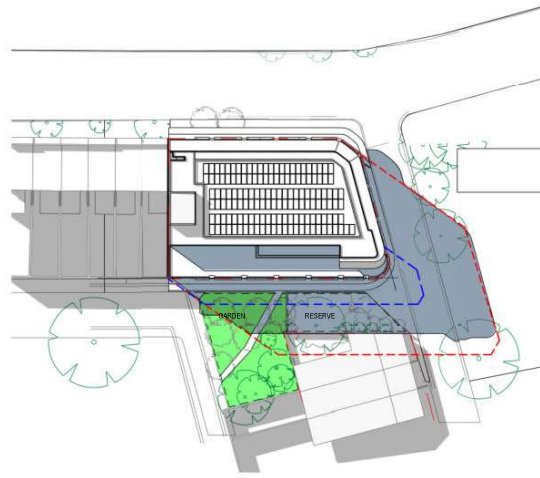


DEVELOPMENT APPROVAL

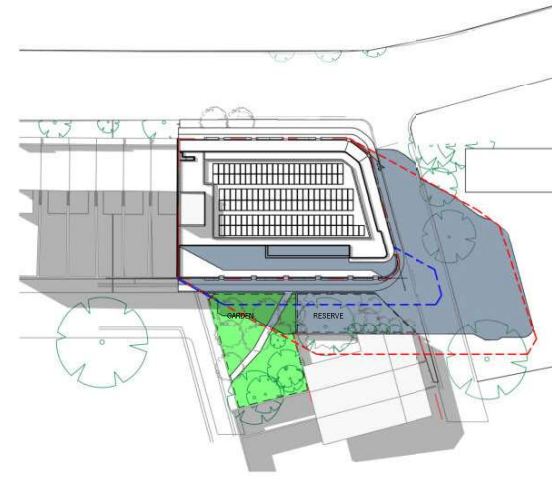
LEGEND:
 - - - COMPLIANT 12M HIGH BUILDING ENVELOPE
 - - - EXISTING WALL APPROX. 4m HIGH, (HEIGHT TO BE CHECKED ON SITE)



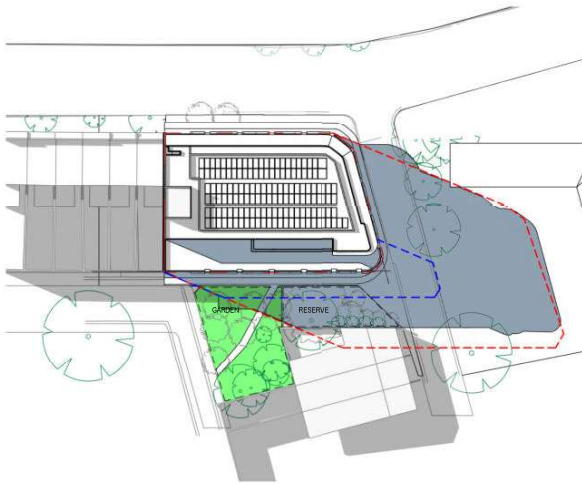
1 Shadows (Winter)-23 June 13.30 pm
1:50



2 Shadows (Winter)-23 June 14.00 pm
1:50



3 Shadows (Winter)-23 June 14.30 pm
1:50



4 Shadows (Winter)-23 June 15.00 pm
1:50

181

REV	DESCRIPTION	DATE	APP.
1	ISSUED TO COUNCIL	14.11.23	AC
2	ISSUED TO COUNCIL	07.05.24	AC
3	ISSUED TO COUNCIL	12.04.24	AC
4	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
SHADOW DIAGRAMS - WINTER

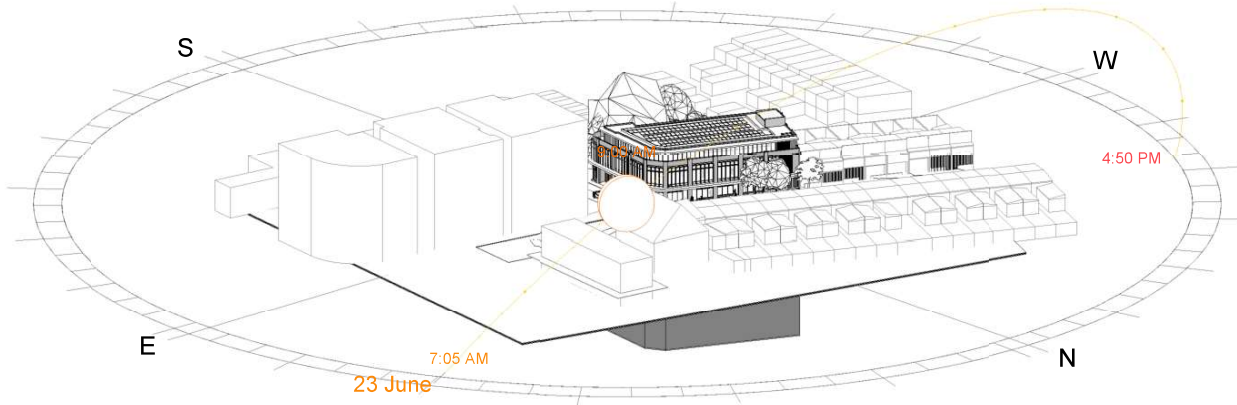
A1 Scale As indicated
 Project 220098
 Issue 4

Number DD - DR - AR - DA 323

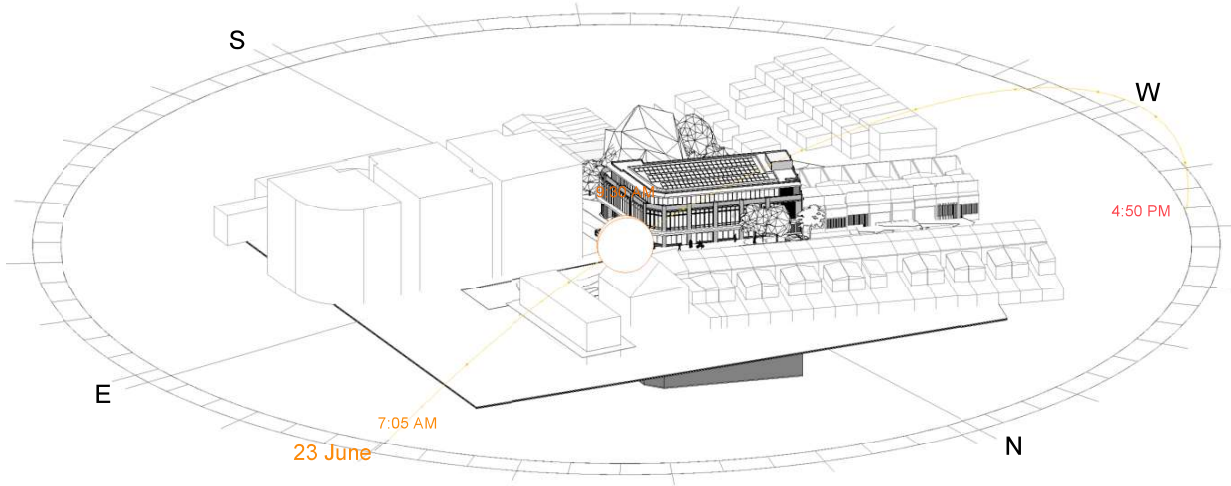
Details
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 Nominated Architect: Lawrence Tomko NSW Reg. 10255,
 Nominated Architect: Ollian Condon NSW Reg. 11726,
 Nominated Architect: Laura Cookburn NSW Reg. 6360.



DEVELOPMENT APPROVAL



1 Sun eye view - 2023 Jun-23, 09-40



2 Sun eye view - 2023 Jun-23, 09-40

REV	DESCRIPTION	DATE	APP.
1	ISSUED TO COUNCIL	07.03.24	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
SUN EYED DIAGRAM - WINTER

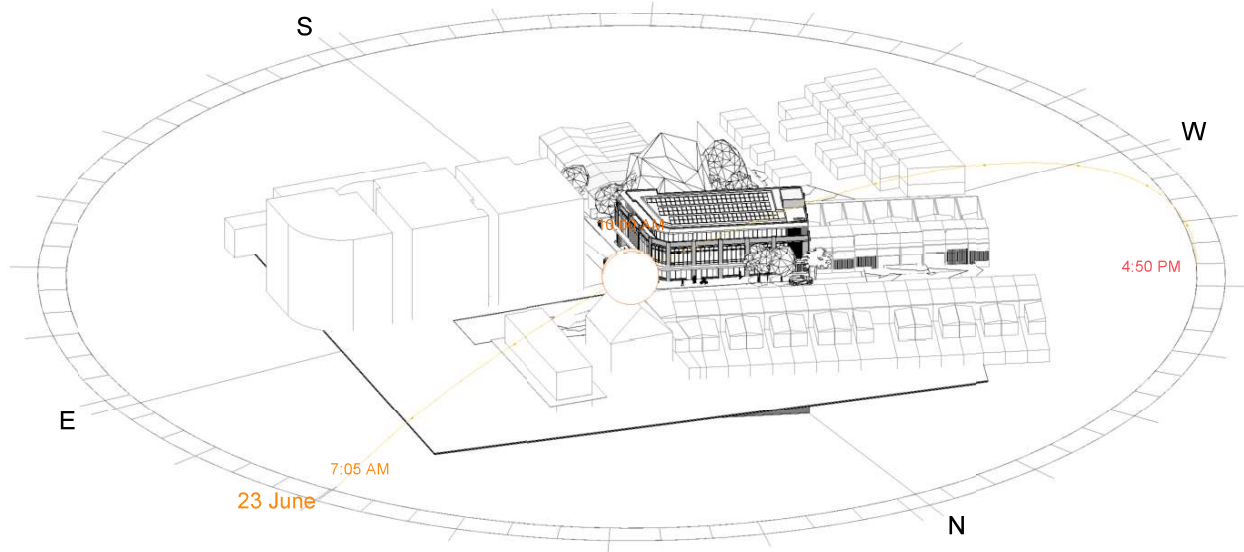
A1 Scale
Project 220098
Issue 2

Number DD - DR - AR - DA 324

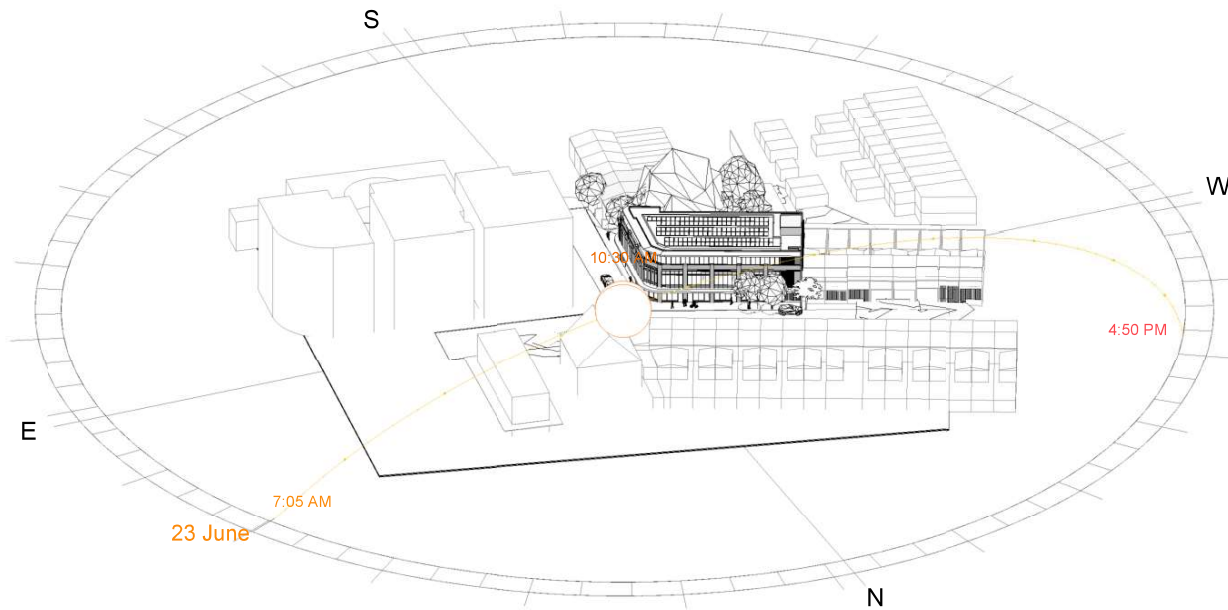
Details
Copyright Conrad Gargett, ACH 636 450 373 ABN 61 631 460 375
Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Toaloo NSW Reg. 10255,
Nominated Architect: Oliver Condon NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360.



DEVELOPMENT APPROVAL



1 Sun eye view - 2023-Jun-23, 10:40



2 Sun eye view - 2023-Jun-23, 10:30

Revision	DESCRIPTION	DATE	APP.
1	ISSUED TO COUNCIL	07.03.24	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

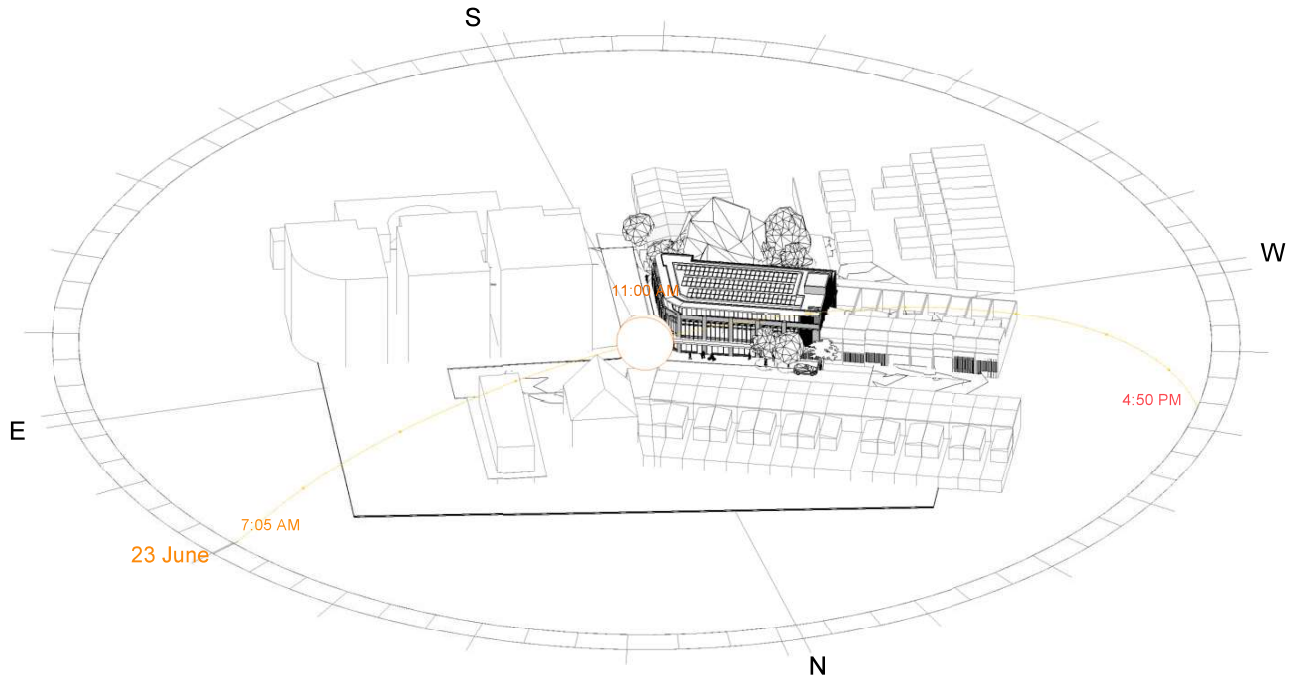
Project
Cleveland St Mixed Use

Drawing
SUN EYED DIAGRAM - WINTER

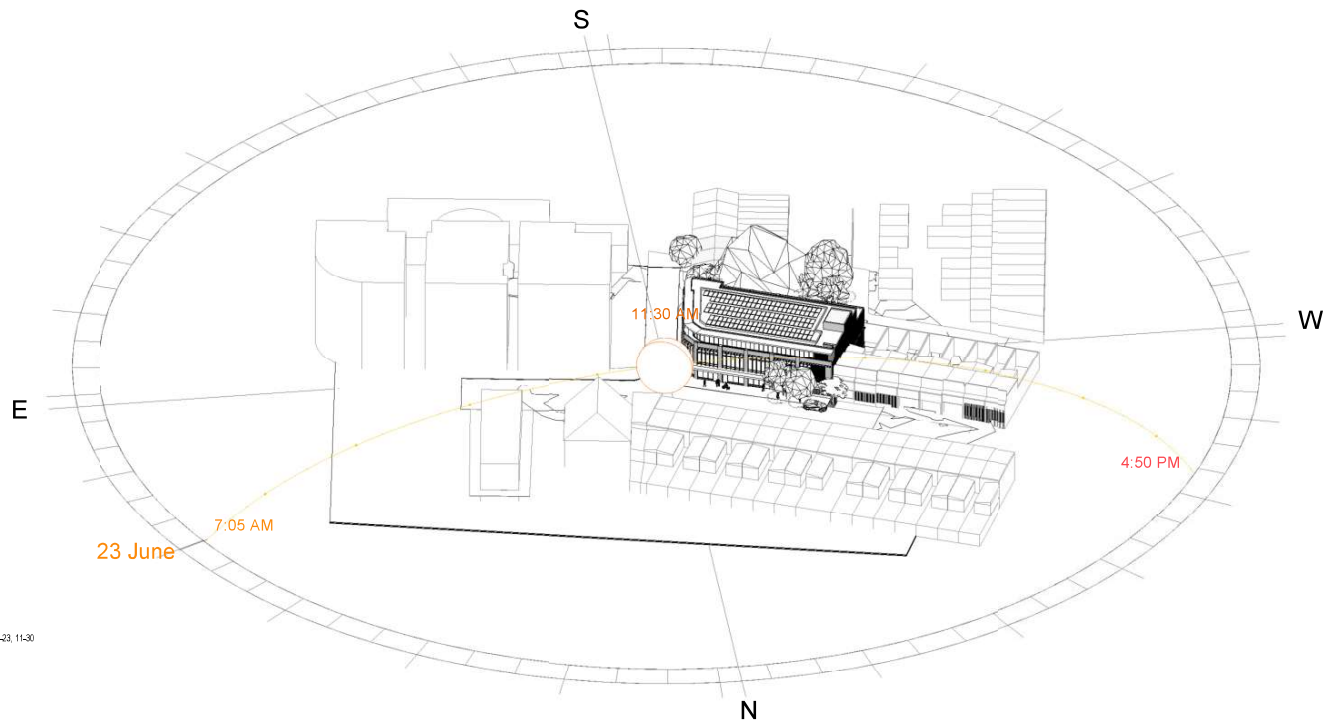
A1 Scale
Project 220098
Issue 2
Number DD - DR - AR - DA 325

Details
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Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Toaloo NSW Reg. 10255,
Nominated Architect: Ollian Condonson NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360,





1 Sun eye view - 2023 Jun-23, 11:00



2 Sun eye view - 2023 Jun-23, 11:30

REV	DESCRIPTION	DATE	APP.
1	ISSUED TO COUNCIL	07.03.24	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

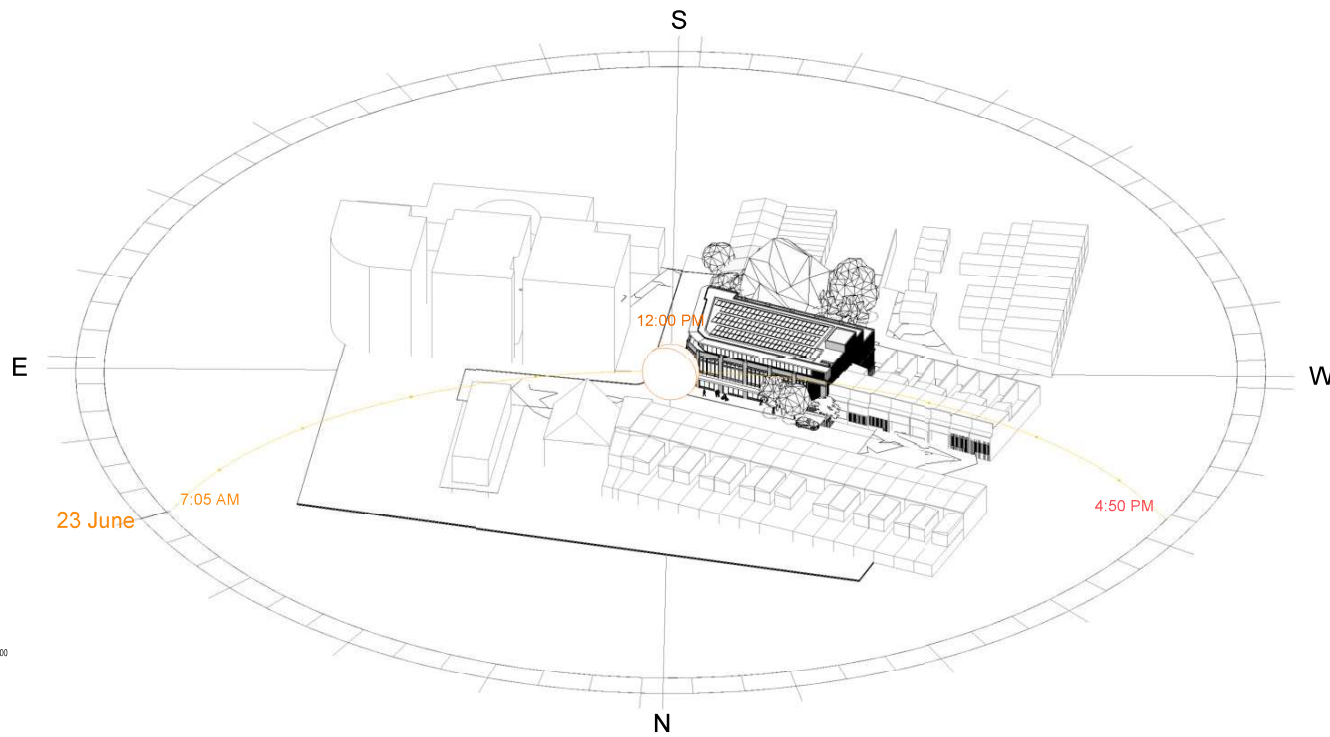
Drawing
SUN EYED DIAGRAM - WINTER

A1 Scale
Project 220098
Issue 2
Number DD - DR - AR - DA 326

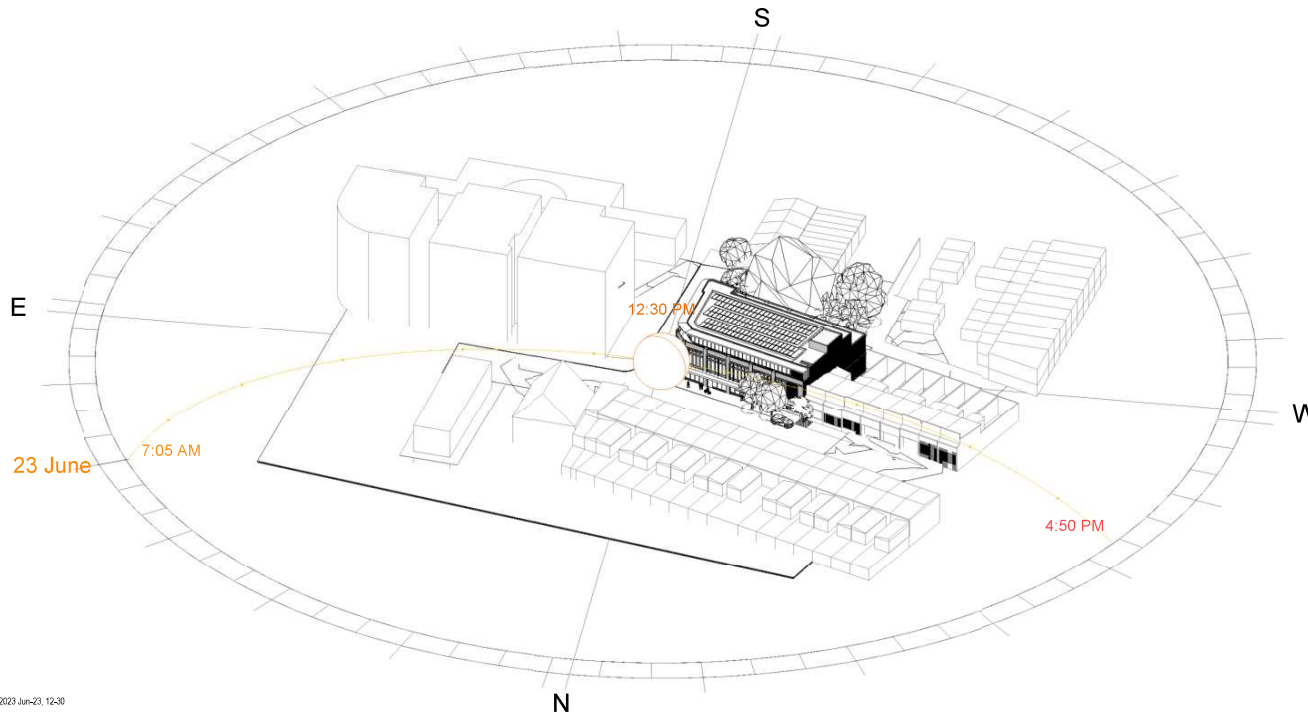
Details
Copyright Conrad Gargett. ACN 636 450 373 ABN 61 636 450 375
Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Tomko NSW Reg. 10255,
Nominated Architect: Oliver Condon NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360.



DEVELOPMENT APPROVAL



1 Sun eye view - 2023 Jun-23, 12:00



2 Sun eye view - 2023 Jun-23, 12:30

185

Revision	REV	DESCRIPTION	DATE	APP.
1	ISSUED TO COUNCIL		07.23.24	AC
2	ISSUED TO COUNCIL		15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

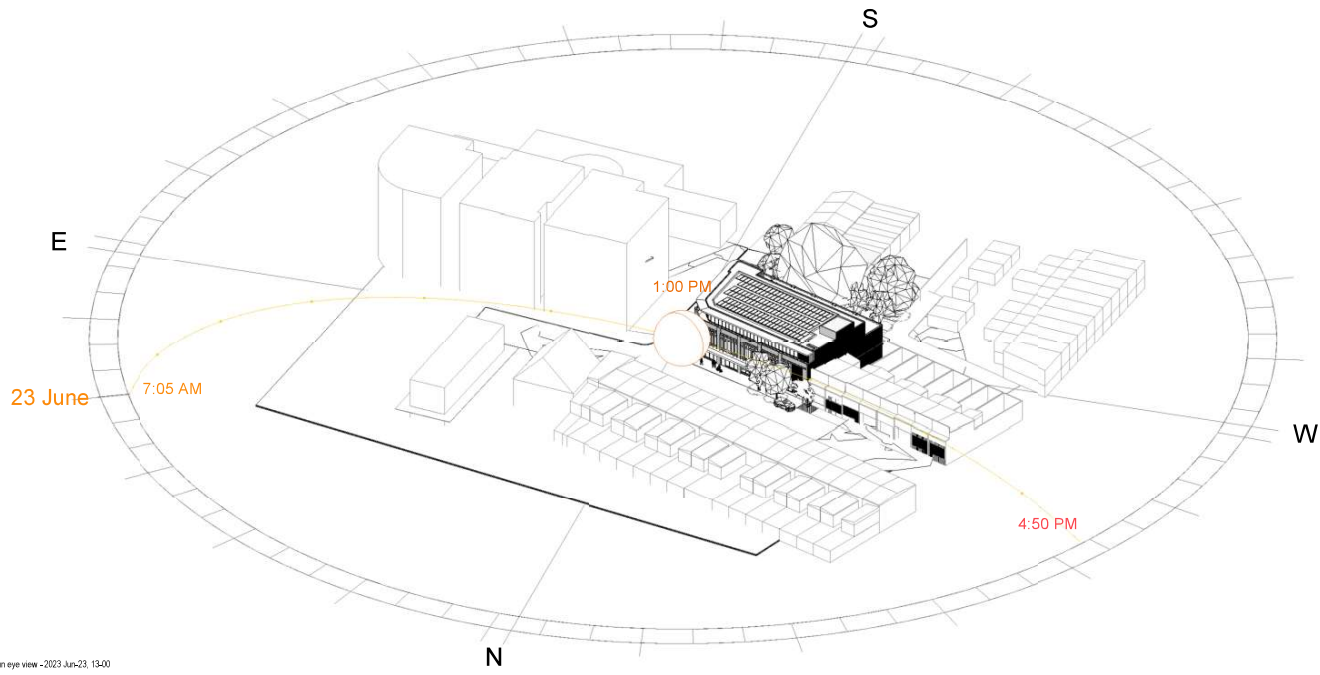
Drawing
SUN EYED DIAGRAM - WINTER

A1 Scale
Project 220098
Issue 2
Number DD - DR - AR - DA 327

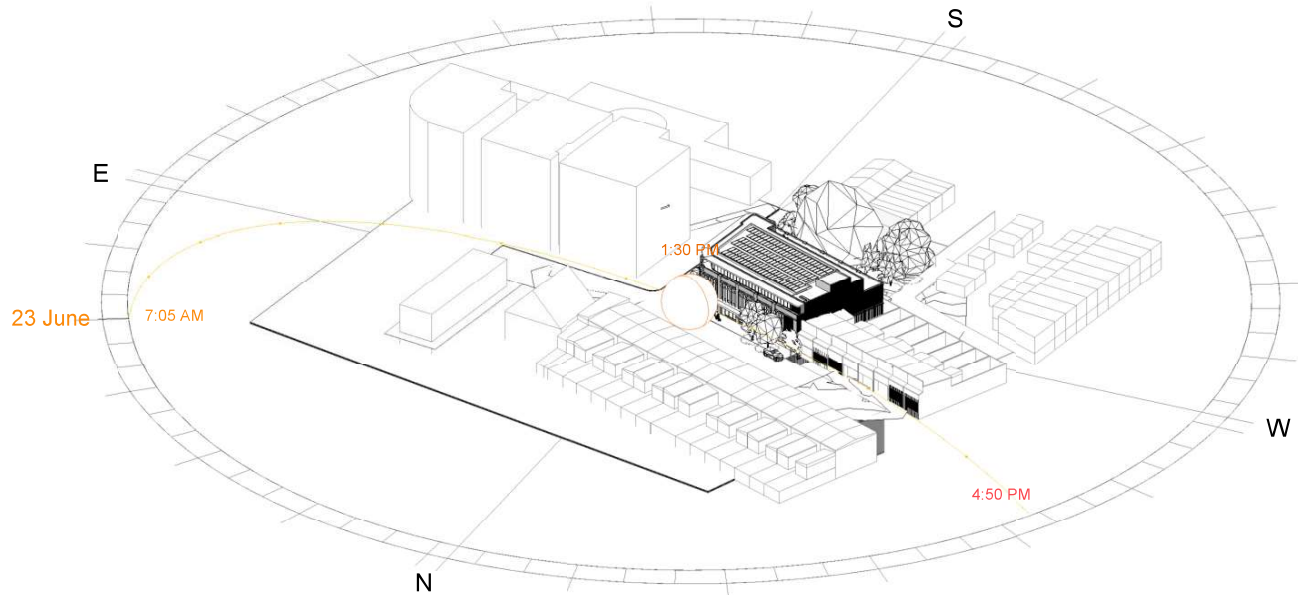
Details
Copyright Conrad Gargett. ACN 636 450 373 ABN 61 636 450 375
Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Toole NSW Reg. 10255,
Nominated Architect: Ollian Condon NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360.



DEVELOPMENT APPROVAL



1 Sun eye view - 2023 Jun-23, 13:00



2 Sun eye view - 2023 Jun-23, 13:30

REV	DESCRIPTION	DATE	APP.
1	ISSUED TO COUNCIL	07.03.24	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
SUN EYED DIAGRAM - WINTER

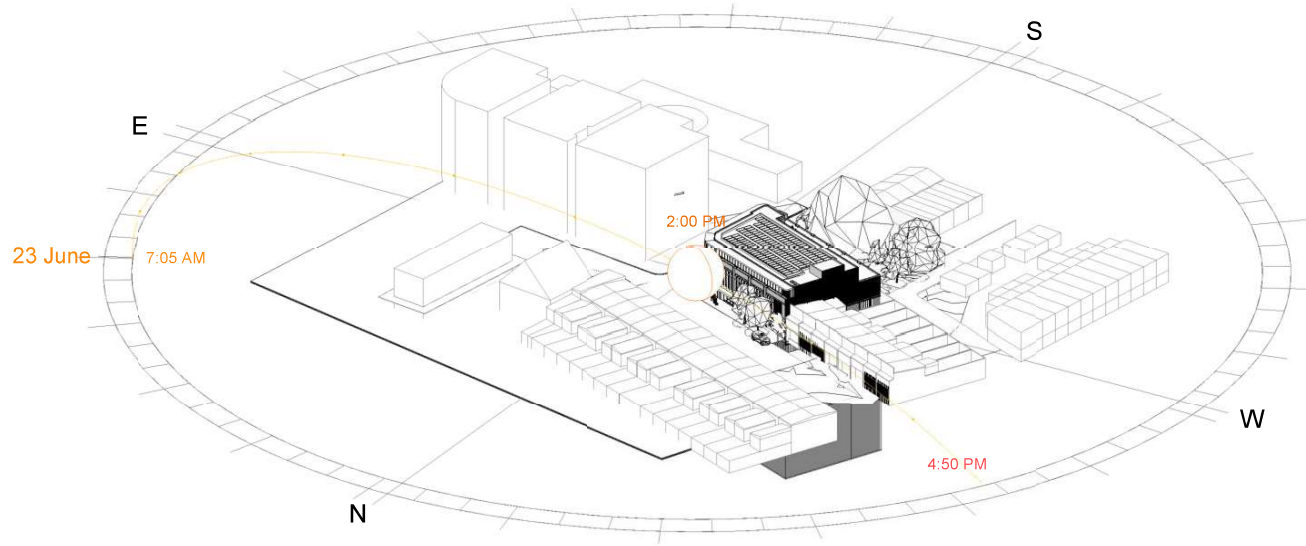
A1 Scale
Project 220098
Issue 2

Number DD - DR - AR - DA 328

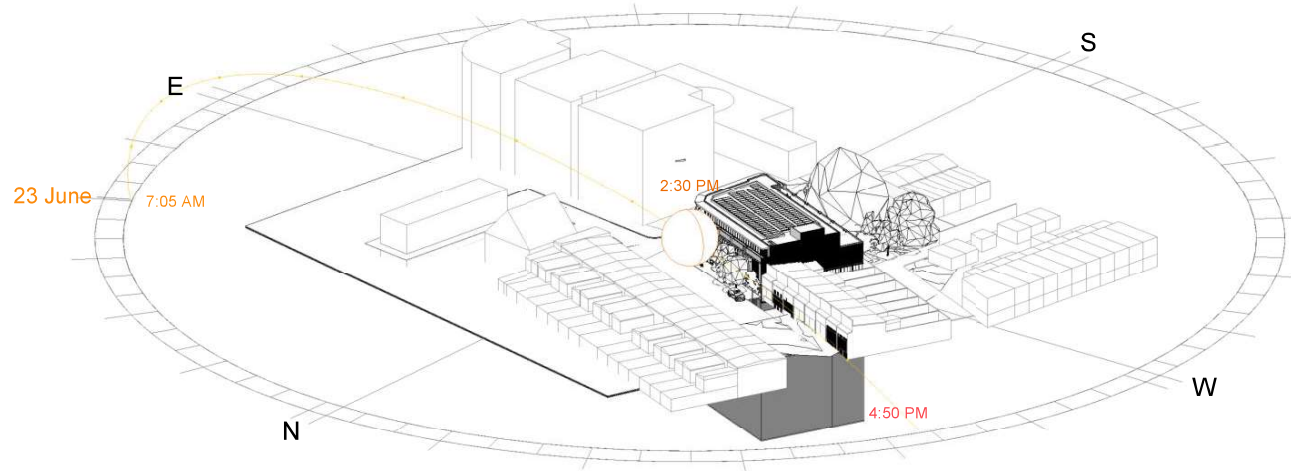
Details
Copyright Conrad Gargett. ACN 636 450 373 ABN 61 636 450 373.
Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Toaloo NSW Reg. 10255.
Nominated Architect: Ollian Condonson NSW Reg. 11726.
Nominated Architect: Laura Cookburn NSW Reg. 6360.



DEVELOPMENT APPROVAL



1 Sun eye view - 2023 Jun-23, 14:00



2 Sun eye view - 2023 Jun-23, 14:30

REV	DESCRIPTION	DATE	APP.
1	ISSUED TO COUNCIL	07.03.24	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

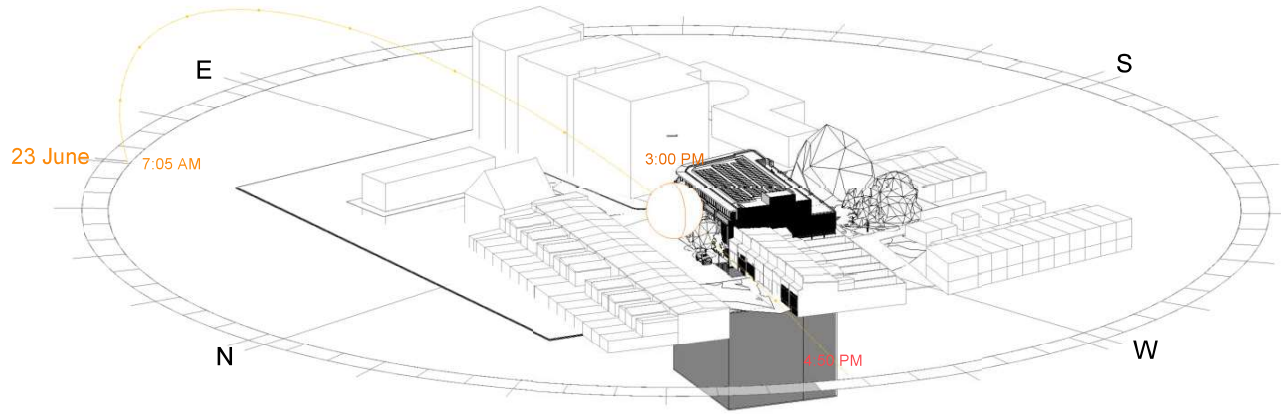
Drawing
SUN EYED DIAGRAM - WINTER

A1 Scale
Project 220098
Issue 2

Number DD - DR - AR - DA 329

Details
Copyright Conrad Gargett, ACN 636 450 373 ABN 61 636 450 373
Do not scale this drawing and verify all dimensions and levels on site.
Nominated Architect: Lawrence Tomko NSW Reg. 10253,
Nominated Architect: Ollian Condonson NSW Reg. 11726,
Nominated Architect: Laura Cookburn NSW Reg. 6360.





1 Sun eye view - 2023 Jun-23, 15:00

REV	DESCRIPTION	DATE	APP.
1	ISSUED TO COUNCIL	07.03.24	AC
2	ISSUED TO COUNCIL	15.05.24	AC

Client
STASIA PTY LTD

Project
Cleveland St Mixed Use

Drawing
SUN EYED DIAGRAM - WINTER

A1 Scale
 Project 220098
 Issue 2

Number DD - DR - AR - DA 330

Details
 Copyright Conrad Gargett, ACH 636 463 373 ABN 61 631 465 375
 Do not scale this drawing and verify all dimensions and levels on site.
 Nominated Architect: Lawrence Tomko NSW Reg. 10255,
 Nominated Architect: Gillian Donohue NSW Reg. 11726,
 Nominated Architect: Laura Cookburn NSW Reg. 6360.



DEVELOPMENT APPROVAL

Attachment E

Submissions

From: Planning Systems Admin

Sent on: Monday, September 11, 2023 1:03:29 PM

To: DAsubmissions

Subject: FW: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Original Message

From: DE

Sent: Thursday, September 7, 2023 3:47 PM

To: DAsubmissions

Subject: Submission D/2023/682 375 387 Cleveland Street REDFERN NSW 2016 Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

We live at 3 Young Street, Redfern, and the rear of our property opens directly onto the pocket park bordered by James Street, Young Lane and Marriott Street, abutting the development site. We have lived here for 20 years and will likely occupy this dwelling for 20 more.

We have some concerns about the proposed development, as follows:

1. Why is a commercial development being approved on this site when the impact of the yet to be completed TOGA site across the road is unknown? Is there an anchor tenant for the commercial space?
2. Given the above, and the obvious need for residential dwellings in the current housing crisis, why are you approving a commercial development rather than a residential one?
3. The plans show 5 commercial leases on the ground floor: small shops, essentially. Why are you approving yet more commercial leases when there are many similar existing shops vacant nearby: west along Cleveland Street, both sides: east along Cleveland Street, both sides: north along Crown Street, both sides: and the unknown number within the TOGA site? Many of these have been vacant for years, and it seems likely that more will become vacant as established shops seek to move into the TOGA site to piggy back off foot traffic generated by the return of Coles supermarket to that site. Who is going to occupy these new leases? In particular, the plans show a small lease at the back of the development site facing into the pocket park. Artist renderings show it raised from ground level by more than a metre. What kind of tenant will occupy this lease? We are concerned that the plans look to be lazily divided into small leases all around the ground floor that may stay empty, ugly, and attractive to litter and vandalism. It doesn't seem thought through. The standard solution for all such developments on major roads is to subdivide into small shop leases, and Sydney is littered with thousands of these empty and wasteful eyesores. Why can't these be made into dwellings, demand for which is known and high?
4. The DA suggests the development will feature a supermarket. What kind of supermarket, and how will it relate to the return of Coles supermarket to the TOGA site across the road? There is also an established convenience store within the BP petrol station 150 metres to the east along Cleveland Street, and two Indian grocers one opposite the BP and another 200 meters up Crown Street to the north. How will another supermarket/mini market in this vicinity be sustainable?
6. The design is dull and uninteresting. If you are going to allow a big envelope here, why not demand more imaginative thinking? The DA states that it fits in with the surrounding buildings and uses, but that's a very low bar. A tin shed would pass that test. The proposal looks to be lowest common denominator, with simple and cheap materials and bog standard window fittings. The envelope above the awnings is red brick, which is passable but hardly imaginative. What concerns us more is below the awnings at street level. Plain, cheap aluminum struts and plate glass, like every other similar development. This is what we will be passing each day, and if they remain empty as we suspect, it will add to an already blighted streetscape, particularly on the Cleveland Street elevation, and especially the aforementioned small lease facing onto the pocket park. Notably, this south facing elevation doesn't address the pocket park in any meaningful way, presenting service access, air conditioning plant, bare brick walls and a likely empty shop that doesn't interact at grade. Really, it would be better if the graffiti wall was retained here instead. At least that provides some social interaction and visual interest from time to time.
6. We are concerned about the mass of the building, in particular its height and the loss of sunlight from our perspective. We've already lost much from the height and mass of the large Cleveland Street facing building in the TOGA development. This proposed development compounds the loss of light further. Given the significant increase in local population density when the TOGA residential apartments are finally occupied, the pocket park (James Street Reserve) will be used by far more people as a place for rest and recreation. Light, air and a sense of space are essential to keeping this small patch pleasant and safe. Objections of this nature would be ameliorated if the proposed building was of a better design and focussed on residential use.
7. Nowhere in the DA is the existing graffiti wall addressed. This wall has attracted graffiti artists since the construction of the car wash some twenty years ago. They are a dedicated group, and they refresh the graffiti wall every few weeks. Is there an associated proposal to

establish one somewhere else nearby? Our concern is that this group won't be easily dissuaded from returning to their work on the new building, with obvious negative consequences. Is there a plan to attend to this?

8. Local young people have established a basketball hoop at the corner of the park where James Street meets Young Lane. This is very popular and well used, and provides local youth a place to gather and engage in physical activity in the outdoors, away from technology and at virtually no cost. Will the proposed development allow this amenity to be retained or even permitted?

Overall, we are very disappointed with the poor standard of design proposed by the DA, most especially the unimaginative and rote approach to street level amenity. Given we'll have to look at this for the rest of our lives, we are of the firm view that the DA does not grasp the opportunities presented by the site for more residential dwellings, a more thoughtful streetscape and the chance to enhance the amenity of the pocket park. We can do better.

David Emery & Amy Wooding
3 Young Street
Redfern 2016



From: Viv Rosman

Sent on: Tuesday, September 26, 2023 4:52:12 PM

To: dasubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

To the Planning Officer,

Submission: Development Application D/2023/682, 375-387 Cleveland Street, Redfern NSW 2016

I have reviewed Development Application D/2023/682 (the **Development**) proposed for 375-387 Cleveland Street, Redfern (the **Site**) and object to the Development in its current form.

I am a local resident and home owner, and a member of the James Street Reserve Community Garden. The Garden occupies part of James Street Reserve, adjoining the southern boundary of the Site.

I oppose the development in its current form due the Development's solar access impacts on the garden as I feel that the Development would place the viability of the garden at risk.

Impact on the JSR Community Garden

The growing of fruits and vegetables requires direct sunlight for the majority of the day. The shadow diagrams provided on page 17 of the Architectural Documentation attached to the Statement of Environmental Effects show that in winter, the Development will cause the majority of the garden to be in shadow until approximately 3pm.

While the 1pm shadow diagram shows the area south of the garden footpath in sunlight at 1pm, this area is already shaded by existing mature trees. This means that in winter, those areas that currently receive sun will only receive 1-2 hours of sunlight at the end of the day.

It can be inferred from the shadow diagrams that while overshadowing will not occur in the summer months, the area north of the footpath will have solar access diminished to some extent for the majority of the year.

Currently the most productive parts of the garden are concentrated in the area north of the footpath. This is because they receive year-long solar access, unlike the shaded areas south of the footpath. The impact of the Development means the whole of the garden would be shade affected for much of the year. This would compromise the ability to grow many types of crops in the garden and affect the health and viability of many of the mature fruit trees.

I believe this will have an impact on the viability of the JSR Community Garden as the garden would be less productive and only conducive to a narrower range of shade tolerant crops. This would cause a decline in involvement and maintenance of the garden with detrimental effects for all community members who enjoy the garden.

Unacceptable social Impacts

An unviable community garden would be a loss to the community and undermine the work of the City of Sydney in promoting community gardens in the city. The JSR Community Garden was established with the support of the City of Sydney in 2010. The City of Sydney's Community Garden Policy 2009 recognises the wide-reaching benefits of community gardens:

The City of Sydney (the City) recognises community gardening as a valuable recreational activity that also contributes to the health and wellbeing of the wider community and provides a range of environmental, social and educational benefits.

The JSR Community Garden is a very successful community association with a committed membership and regular working bees. Since its establishment it has provided a space for the cultivation of community connections through growing together. The garden is a much appreciated part of the local landscape, serving the community by providing:

- pleasure and amenity to a wide variety of local residents who come to walk and sit in the garden;

- compost bins that local residents use to compost their food waste; and
- education about growing food, including from time-to-time to school groups who have used the garden as a learning experience.

As such, the Development, in compromising the vitality and viability of the JSR Community Garden, will cause unacceptable social impacts upon the local community.

Not in the public interest

Further, approving the development would be inconsistent with the City of Sydney's efforts to promote community gardens. The City's Greening Sydney Strategy 2021 promotes use of community gardens as a way of achieving Action 7 - Grow Food Locally. The Development's impact on the garden would therefore be counter to the City of Sydney's strategic policy.

Given the importance of the JSR Community Garden to the local community and to Council's efforts to promote community gardens to achieve environmental and social outcomes, I believe the Development in its current form is not in the public interest and should not be approved in its current form. I believe that acceptable development of the site would need to be limited in height to avoid solar impacts on the JSR Community Garden.

Kind regards,

Viv Rosman

From: Jerry A.Gobel

Sent on: Thursday, September 7, 2023 1:47:31 PM

To: dasubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Caution: This email came from outside the organization. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Planning Team

I wonder if the city can restart the review period since the public notice of planning application is hidden behind the plant.

I have concern regarding the design of the new building. The height of the building will block the sunlight access to the small adjoining park and community garden.

This park is visited regularly by people who live around the area, including me. It is one of the few local amenities that gets proper sunlight throughout the year.

I don't object to the development but I want it to alter the current design to the new one that won't give a negative effect towards the community.

Regards

Jerry Gobel

82 Boronia st Redfern

From: Eav Brennan

Sent on: Sunday, September 3, 2023 7:22:18 AM

To: dasubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Hiya!

I'm another member of James St reserve Community Garden. I'd like to state my concern over this development overshadowing the garden. I grow herbal teas in the garden that need full sun.

In addition to the environmental significance of the garden that has been submitted on behalf of the whole team, I would like to talk about the social significance of the garden.

I have complex mental illness and working the garden is an important part of my mental health action plan. In the day, there are people from all sorts of circumstances who sit in the garden and enjoy the area. Since joining only a few weeks ago, I have been several times a week and met many of my neighbours.

It would be a loss to the city if the plants died because of overshadowing. I'm not opposed to the development but I am concerned and opposed to the third storey that is shown to cast shade on the garden area over winter.

Thanks.

Eav Brennan

From: Elise Licha
Sent on: Thursday, September 7, 2023 3:24:56 PM
To: City of Sydney
Subject: D/2023/682 - 375-387 Cleveland Street Redfern - Objection
Attachments: D-2023-682 Objection City of Sydney .docx (1.25 MB)

Caution: This email came from outside the organization. Don't click links or open attachments unless you know the sender, and were expecting this email.

To whom it may concern,

I am attaching my objection for the development application D/2023/682 - 375-387 Cleveland Street Redfern. Please let me know if I need to give you any personal details in regards to this objection.

City of Sydney

council@cityofsydney.nsw.gov.au

To whom it may concern,

Development Application: D/2023/682 - Object to a development proposal

Objections:

1. **Height Limit 12m LEP 2012** – the proposal at is highest is **2.76m over the height limit** (*image below extract from documents ‘Applications on exhibition’ – attachment Architectural Package – 375-387 Cleveland Street, Redfern_PAN_353939*)

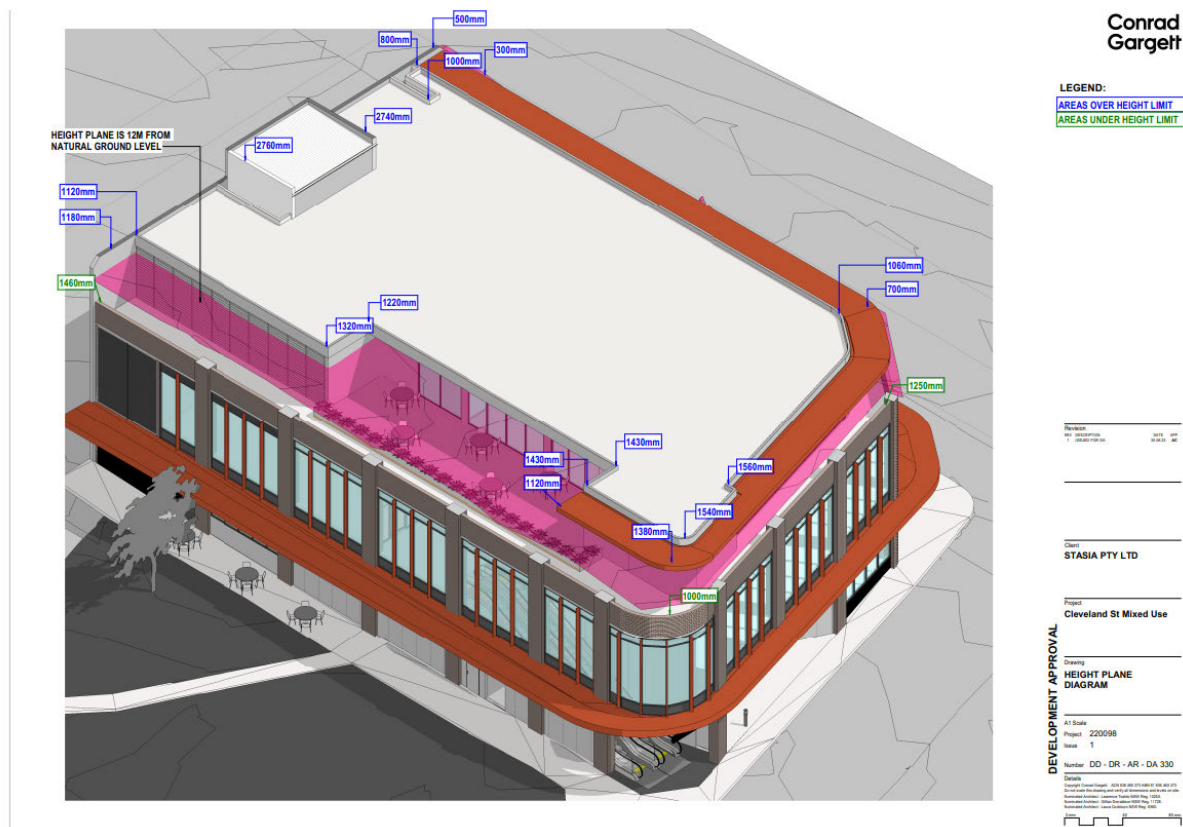


Image 01

Document ‘Statement of Environmental Effects – 375-387 Cleveland Street, Redfern_PAN_353939 – page 23 states –

The roof height plan prepared by Architectus Conrad Gargett (with except below) illustrates that whilst the parapet of the building around the site is below the height control, the roof of the building marginally exceeds the height control, with a maximum height of 13.56 metres at the south-eastern

corner which is a 1.56 metre or 13% variation. The lift overrun also exceeds the 12 metre height control, with a maximum height of 14.76 metres which is a 2.76 metre or 23% variation.

The plans prepared by Architectus Conrad Gargett (see image 02 below) clearly is measured from the Ground Floor Level RL 34.300.

The NSW Legislation Sydney Local Environmental Plan 2012 states:

building height (or **height of building**) means—

- (a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like



3 DA_SOUTH ELEVATION Notification
1:200

Image 02

- (b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building,

Part B in relation to the vertical distance from the Australian Height Datum which is stated in the Notes 3 (see Image 03 below) of the Survey is RL 30.538.

Therefore the building height should not exceed RL **42.538** but it is currently at RL **49.96** this is

7.422 metres over the height limit.

EASEMENTS

- (A) CROSS EASEMENTS FOR SUPPORT (S181b) 0.115 WIDE VIDE DP 438148 & G43417
- (B) CROSS EASEMENTS FOR SUPPORT (S181b) 0.055 WIDE VIDE DP 438148 & G43417
- (C) COVENANT Z357488

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 SSM159713 R.L. 30.538 (A.H.D.) IN BAPTIST STREET
4. CONTOUR INTERVAL 0.2 m
5. CONTOURS ARE INDICATIVE ONLY. ONLY SPOT LEVELS SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION
6. ONLY SPOT LEVELS SHOULD BE USED FOR CALCULATIONS OF QUANTITIES WITH CAUTION
7. KERB LEVELS ARE TO THE TOP OF KERB UNLESS SHOWN OTHERWISE
8. FLOOR LEVELS SHOWN ARE THRESHOLD LEVELS. NO INVESTIGATION OF INTERNAL FLOOR LEVELS HAS BEEN UNDERTAKEN
9. NO INVESTIGATION OF UNDERGROUND SERVICES HAS BEEN MADE. SERVICES HAVE BEEN PLOTTED FROM RELEVANT AUTHORITIES INFORMATION AND HAVE NOT BEEN SURVEYED. ALL RELEVANT AUTHORITIES SHOULD BE NOTIFIED PRIOR TO ANY EXCAVATION ON OR NEAR THE SITE
10. 8/14/7 DENOTES TREE SPREAD OF 8m, TRUNK DIAMETER OF 0.4m & APPROX HEIGHT OF 7m
11. SHOWS APPROXIMATE POSITION OF ROAD LINEMARKING AND IS INDICATIVE ONLY
12. BEARINGS SHOWN ARE MGA (MAP GRID OF AUSTRALIA) ADD APPROX. 1°00' FOR TRUE NORTH

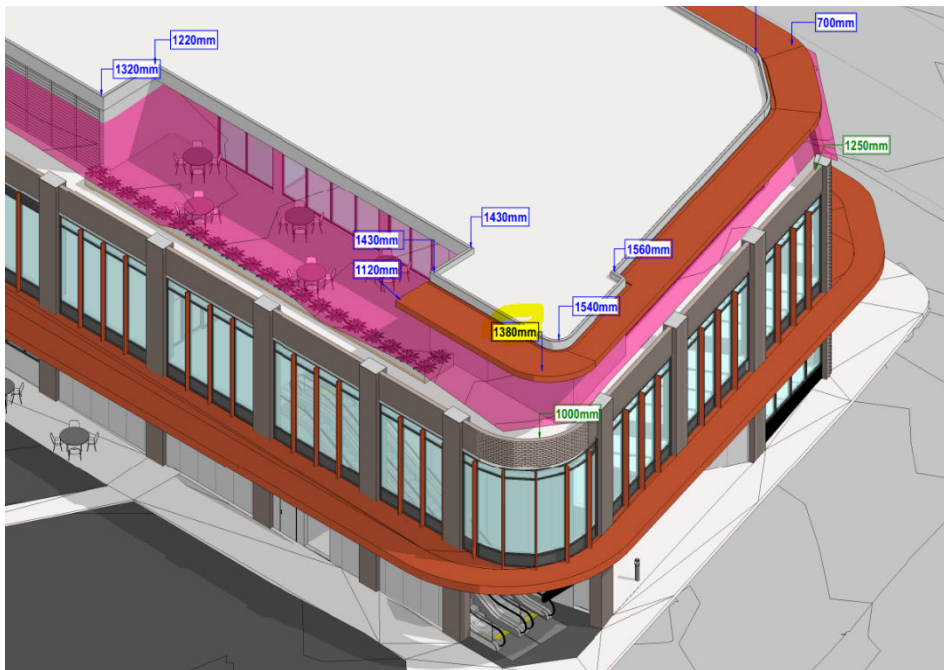
Image 03

With all the above concerning the Building Height I believe that the plans are misleading and incorrect.

Elevation – North, South, East (Aligned), Section 1, Section 2

The above elevations listed show the LEP 12m Height Plane taken from the Ground Floor Level. This is completely wrong. As stated in the NSW Legislation Sydney Local Environmental Plan 2012 it is measured from the existing ground line in a vertical distance.

These elevations and sections are not correct. The East Elevation – Square Sheet 201 shows the 12m Height line taken from existing ground line. The Height Plane Diagram on Sheet 330 are misleading and incorrect as well, for example below image 04 indicates the awning is 1380mm above the height limit. But according to the East Elevation – Square (see Image 05 below) it is 1.7 over the height.



Revision	REV	DESCRIPTION	DATE	BY
1	1	ISSUED FOR ICA	16/08/23	AC

Client:
STASIA PTY LTD

Project:
Cleveland St Mixed Use

Drawing:
HEIGHT PLANE DIAGRAM

A1 Scale:
Project: 220098
Issue: 1
Number: DD - DR - AR - DA 330

Details:
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Image 04

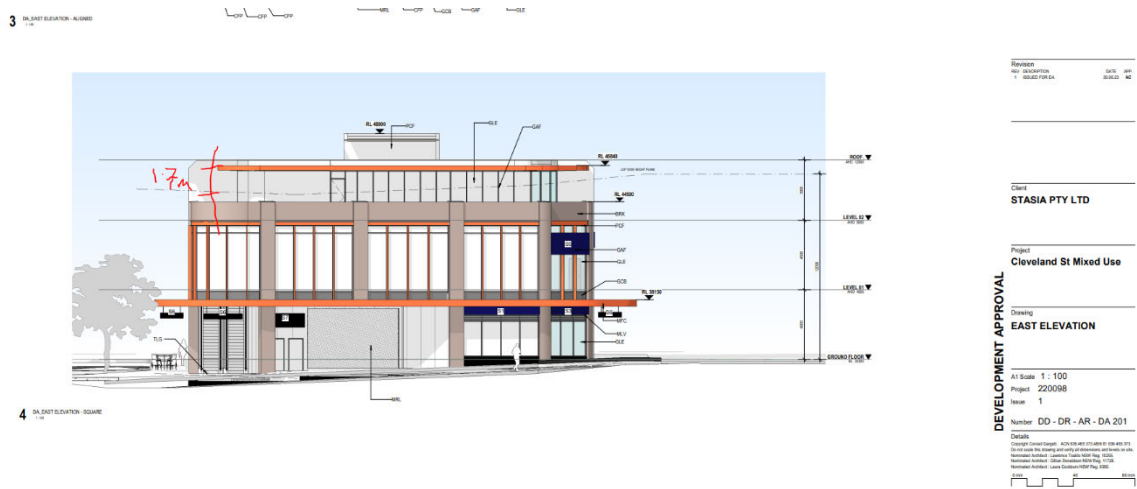


Image 05

2. **Floor Space Ratio 1.5:1** – according to the plans (sheet 301–Architectural Package- 375-387 Cleveland Street Redfern_PAN_353939) if they are correct, they **exceed the FSR by 74.87sqm**
3. The concern for the adjacent neighbour 373 Cleveland St Redfern is that all the buildings services are along the western boundary wall. The concern is the noise/vibrations/smells that may be caused to this property. As you can see from the plans the customer/goods lift, mechanical supply room, mechanical exhaust room, substation, water tank, main switch room, mechanical plant room are all located on this western boundary. Not to mention the shaking and noise caused through the drilling of the contiguous piers that will take place along the boundary and damage to the property.

All the above reasons are why we object to this proposal.

From: Elizabeth Moore

Sent on: Saturday, September 2, 2023 7:01:45 PM

To: dasubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Sir/Madam,

Directly opposite this development is our very important and well established community garden. The development will mean that we lose access to sunlight which is so important not only for the plants but also for the community of people who come together regularly to tend to the garden. If this happens, a whole community of people, will be effected. Community is important! Please consider this in the planning. Consider the massive impact to the infrastructure around the building. We don't need more shops! We need opportunities in this day and age for like minded people to come together with the ultimate goal of improving our environment.

So little land is available.....don't ruin the little land that we have!

I look forward to hearing from you.

Kind regards

Elizabeth Moore

(James street Community garden member)

From: hugh mc gonagle

Sent on: Thursday, September 7, 2023 10:33:41 PM

To: DASubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear City of Sydney

I note that I have had limited time to review this proposal due to failures in the notification process, and I have requested that the process be extended.

I have the following concerns:

1. The height of the building is out of keeping with its neighbours, which are largely Victorian terraces. While the new SHV development is a greater height, it is entirely contained on its own block so is actually and visually separate.
2. The height of the building exceeds planning restrictions.
3. The style of the building is out of keeping with its neighbouring Victorian terraces.
4. No provision has been made for green space on the site.
5. The rear of the building is an array of ugly services, which is not appropriate for the area or its current function. The rear is not a 'services laneway'. It is currently a well-used pedestrianised footway with a public park and community garden. The rear wall of the existing property on the site is used for street art. It is well maintained and much loved by locals.

Regards

Hugh Mc Gonagle

From: Hugh McGonagle

Sent on: Thursday, September 7, 2023 11:53:51 AM

To: dasubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Planning Team

I note that I have not had sufficient time to review the documents for this planning application, due to the occupier of the premises hiding the public notice behind a plant. I have raised an objection separately to the City on this. My comments therefore are limited to a high level review. I request that the City re-start the review period, so that I and others can have the legally permitted time to consider the application and provide feedback.

My concern with the application is that, for much of the year, the new building will block solar access to the small adjoining park and community garden. I regularly visit the garden throughout the year. It is one of the few local amenities that gets proper sunlight throughout the year: other nearby small parks do not get the same light. By removing the solar access, the building undercuts the function of the garden for much of the year. It is an important resource for people who live nearby, who do not have adequate green space of their own. The park is regularly visited by older people with mobility issues, who will be unable to walk as far as Moore Park. Further, in this inner city location, the community garden provides a vital social connection for those living alone and those who are unable to afford commercial amenities.

I don't object to the development per se, but I strongly object to the current design, which has a negative effect on the community.

Regards

Hugh McGonagle
82 Boronia St
Redfern

From: James Street Reserve Community Garden

Sent on: Saturday, September 2, 2023 5:43:15 PM

To: dasubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Attachments: DA Objection- JSR Community Garden.pdf (143.35 KB)

Caution: This email came from outside the organization. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Planning Officer

Please find attached our submission in relation to D/2023/682.

Kind regards

the JSRCG Committee

jsrcg.blogspot.com



2 September 2023

The Planning Officer
City of Sydney
Level 2, 456 Kent Street
Sydney NSW 2000

To the Planning Officer

Submission: Development Application D/2023/682, 375-387 Cleveland Street, Redfern NSW 2016

The James Street Reserve Community Garden (**JSR Community Garden**) has reviewed Development Application D/2023/682 (the **Development**) proposed for 375-387 Cleveland Street, Redfern (**the Site**) and objects to the Development in its current form.

JSR Community Garden is a community association with 22 financial members and occupies part of James Street Reserve, adjoining the southern boundary of the Site. We have continuously operated since our establishment in 2010.

While we are not opposed to redevelopment of the Site, we oppose the development in its current form due the Development's solar access impacts on the garden. We believe that the Development in its current form would place the viability of the garden at risk.

City of Sydney should not approve the Development because the Development in its current form would:

1. have unacceptable social impacts on the community; and
2. not be in the public interest.

Impact on the JSR Community Garden

As you will appreciate, the growing of fruits and vegetables requires direct sunlight for the majority of the day. The shadow diagrams provided on page 17 of the Architectural Documentation attached to the Statement of Environmental Effects (**SEE**) show that in winter, the Development will cause the majority of the garden to be in shadow until approximately 3pm.

While we note that the 1pm shadow diagram shows the area south of the garden footpath in sunlight at 1pm, this area is already shaded by existing mature trees. This means that in winter,

those areas that currently receive sun will only receive 1-2 hours of sunlight at the end of the day.

It can be inferred from the shadow diagrams that while overshadowing will not occur in the summer months, the area north of the footpath will have solar access diminished to some extent for the majority of the year.

Currently the most productive parts of the garden are concentrated in the area north of the footpath. This is because they receive year long solar access, unlike the shaded areas south of the footpath. The impact of the Development means the whole of the garden would be shade affected for much of the year. This would compromise the ability to grow many types of crops in the garden and affect the health and viability of many of the mature fruit trees.

We believe this will have an impact on the viability of the JSR Community Garden as a garden that is less productive and only conducive to a narrower range of shade tolerant crops would be unattractive to our membership. We anticipate this would cause a decline in involvement and maintenance of the garden with detrimental effects for all community members who enjoy the garden.

Unacceptable social Impacts

An unviable community garden would be a loss to the community and undermine the work of the City of Sydney in promoting community gardens in the city. The JSR Community Garden was established with the support of the City of Sydney in [2010]. We note the City of Sydney's Community Garden Policy 2009 recognises the wide-reaching benefits of community gardens:

The City of Sydney (the City) recognises community gardening as a valuable recreational activity that also contributes to the health and wellbeing of the wider community and provides a range of environmental, social and educational benefits.

The JSR Community Garden is a very successful community association with a committed membership and regular working bees. Since its establishment it has provided a space for the cultivation of community connections through growing together. The garden is a much appreciated part of the local landscape, serving the community by providing:

1. pleasure and amenity to a wide variety of local residents who come to walk and sit in the garden;
2. compost bins that local residents use to compost their food waste; and
3. education about growing food, including from time to time to school groups who have used the garden as a learning experience.

As such, the Development, in compromising the vitality and viability of the JSR Community Garden, will cause unacceptable social impacts upon the local community. These social impacts are not addressed by the SEE.

Not in the public interest

Further, approving the development would be inconsistent with the City of Sydney's efforts to promote community gardens. We note the City's Greening Sydney Strategy 2021 promotes use of community gardens as a way of achieving Action 7 - Grow Food Locally. The development's impact on the garden would therefore be counter to the City of Sydney's strategic policy.

Given the importance of the JSR Community Garden to the local community and to Council's efforts to promote community gardens to achieve environmental and social outcomes, we believe the Development in its current form is not in the public interest.

For these reasons, we believe the Development should not be approved in its current form. We note the developer has not proposed any mitigation strategies to address its impacts on the garden. Given the highly built up nature of Redfern, there are limited opportunities for the garden to be relocated nearby. We believe that acceptable development of the site would need to be limited in height to avoid solar impacts on the JSR Community Garden.

We would invite the planning officers to discuss this submission with us further and invite you to contact us on [REDACTED] or by email on jsrcommunitygarden@gmail.com to arrange a meeting.

Kind regards

Cress Dawson
President
JSR Community Garden

From: Jay Gillieatt

Sent on: Saturday, September 2, 2023 12:19:30 PM

To: dasubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Planning Officer

I am a member of the James Street Reserve Community Garden (**JSR Community Garden**) located directly behind the proposed development. I wish to object to the Development in its current form.

I am concerned that the development will have unacceptable impacts on the JSR Community Garden by blocking solar access. The shadow diagrams on page 17 of the Architectural Documentation attached to the Statement of Environmental Effects show that the Development will overshadow the JSR Community Garden for a large part of the day.

As gardens need sunlight to thrive, blocking solar access will greatly diminish the utility of the JSR Community Garden. This will, I fear, diminish the garden and its contribution to the local community. Not only is the garden a beautiful aesthetic addition to the urban landscape, but it is an important community building activity which forges connections between local residents.

I have been a member of the JSR Community Garden for 4 years and have greatly benefited by meeting others in my local community. It would be a great loss both to myself, fellow members and the wider community to which we interact with to lose this successful community endeavour.

I know that City of Sydney has for many years supported community gardens in the LGA. Approving this development in its current form would be inconsistent with this policy position and result in a poor outcome for the local community.

The developer does not acknowledge these impacts and has not put in place any mitigation measures to limit its impact on the JSR Community Garden.

As such, I believe Council should reject the Development in its current form.

Kind regards

Jay Gillieatt


From: Kathy Lindsay

Sent on: Saturday, September 2, 2023 10:21:50 PM

To: dasubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

I am a long term member of the James Street Reserve Community Garden. I object to this development as losing access to sunlight to the garden would have negative impacts on the fruit trees and the native bee box at the northern end of the garden and greatly diminish the crops, flowers and plants we could grow. A community garden cannot thrive without sunlight. I value the garden for its plants as well as the strong social cohesiveness it provides to our garden community both our members and the many neighbours and visitors to the garden. This would be lost if the development went ahead. I welcome council planners to visit us at the garden to see the negative impacts of this development on me, my family, the James Street Community Garden members and friends and the local community who enjoy the garden. Yours faithfully,

Kathy Lindsay

39a Young Street, Redfern

Sent from my iPhone

From: L Walsman

Sent on: Thursday, September 7, 2023 4:47:21 PM

To: dasubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Hi,

I'd like to voice my concern about the DA application for 375 387 Cleveland street.

First of all the notice had been covered so as a community we hadn't been given ample notice to review said plans (and in all honesty is a Red Flag).

My concern is more traffic both cars and humans given the development only next door of the enormous TOGA development that has already both increased its height above our standard and then its plans many times. We've been dealing with this development for years now and the disrupt of another so close by and starting straight after one will finish seems unnecessary, disruptive with its noise impact and dust and pollution and confusing.

Creating traffic in what was a very small quiet neighbourhood with a small condensed lot of terraces seems more out of character with the rest of the neighbourhood and also unnecessary given the huge development only next door that will have two large supermarkets, retail, working spaces, a hotel and new terraces. What exactly are these proposed stores etc? How do they improve the area and benefit the residents ?

The impact environmentally on one of our only green spaces directly behind and also the community garden which has been a long standing community space. Aswell as the impact of potentially destroying a space where community gather.

How does this development compare to TOGA's green statement?

Thank you for your time,

Lee Walsman

88 Boronia street , Redfern

From: Lesley Holden

Sent on: Thursday, September 7, 2023 4:10:38 PM

To: dasubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Andrew

I wish to object to the above development or at least have more time allocated for consultation. My neighbour said the applicant obscured the public notice (plastic bag over it) so we were not aware of this proposal. If so, this in its self is a warning.

The major concern is the proposed building will create shade, blocking sun to the well established St James Community Garden which is highly valued by the community.

The other concern is a 3 story commercial building makes absolutely no sense to include a neighbourhood supermarket. We have the giant TOGA development which has been going for about 3 years. This will service the community. We don't need any more cars coming into this area for another supermarket .The supermarket is not defined either. It could be a convenience store selling junk. We need more time to understand this.

Plus we need to know what level of architectural integrity this proposal has and if it compliments the design effort of the Toga /Coles complex including its sustainable/green ratings etc.

Thank you

Lesley Holden 84
Boronia St
Redfern NSW 2916

From: Rita Rasink

Sent on: Sunday, September 3, 2023 9:20:59 PM

To: dasubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

I would like you to consider my opposition to this development.

I belong to the James St community garden and spend a few hours per week weeding, watering and tending the communal garden as well as my own plot. This provides me with quality time and quiet away from busy Crown St where I live. The garden is a place where locals stop to chat while I'm working and they also utilise the seating for some sun and solitude.

The height of the proposed building will seriously impact the garden and its productivity especially during the winter months due to the over shadowing of the garden. Our bigger fruit trees will also be impacted due to reduced sunlight hours. This garden provides produce for many people in the area who are able to take whatever they want or need from it.

Should the proposal in its present form be approved our community garden will not be viable and to continue gardening there would be disheartening and not provide any benefit to me or the community who take the produce

I would like to see a setback in the design to allow year round sunlight into the garden

Thankyou.

M.Rasink 

From: Sean Lubbe

Sent on: Thursday, September 7, 2023 7:01:11 PM

To: dasubmissions

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Hi,

I wish to register an objection to the development on the grounds that the scale mean that the proposed building will overshadow the long established community garden adjacent to it. This has long been a focal point of the community, and with such small yards, a way for local residents to grow and cultivate flowers and food. Without adequate periods of sunshine the function of this allotment is by default made obsolete. This is particularly relevant for our Aboriginal brothers and sisters, to connect to the land in already very developed area of Redfern.

Dr Sean Lubbe

From: [REDACTED]

Sent on: Thursday, September 7, 2023 3:07:28

To: PM dasubmissions

Subject: Fwd: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Attachments: FW Submission - D 2023 682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown.eml (28.39 KB)

Caution: This email came from outside the organization. Don't click links or open attachments unless you know the sender, and were expecting this email.

Please note the attached was incorrectly sent from my work address.

Please note it is a private submission.

[REDACTED]
Walker St
Redfern NSW 2016

Get [Outlook for Android](#)

From: [REDACTED]

Sent on: Thursday, September 7, 2023 3:05:00 PM

To: [REDACTED]

Subject: FW: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Regards

[REDACTED]

From: [REDACTED]

Sent: Thursday, September 7, 2023 3:03 PM

To: dasubmissions@cityofsydney.nsw.gov.au

Subject: Submission - D/2023/682 - 375-387 Cleveland Street REDFERN NSW 2016 - Attention Adrian McKeown

Hi City of Sydney,

This application will have considerable shading impacts on the park and community garden.

Design must make sure that maximum options for sunlight are available.

Would also be great if the current pedestrian walkway connecting James St and Marriott St also allowed a cycling option – given that James St is proposed to be a 2 way road for cycling.

[Proposal to allow two-way bike traffic on some one-way streets - City of Sydney \(nsw.gov.au\)](https://www.cityofsydney.nsw.gov.au/proposals/2023/09/proposal-to-allow-two-way-bike-traffic-on-some-one-way-streets)

Regards

[REDACTED]

Item 4.**Development Application: 42 Darlinghurst Road, Potts Point - D/2023/987**

File No.: D/2023/987

Summary**Date of Submission:** 30 October 2023**Applicant:** Local Approvals**Architect/Designer:** MD+A Architects**Developer:** Asteri Holdings Pty Ltd**Owner:** Asteri Holdings Pty Ltd**Planning Consultant:** Local Approvals**Cost of Works:** \$45,000.00**Zoning:** The site is located within the E1 Local Centre under the Sydney Local Environmental Plan 2012. The proposed restricted premises is permissible with consent in the zone.**Proposal Summary:** Approval is sought for the use of the whole building as a restricted premises (adult entertainment premises) with internal alterations. An adult entertainment premises is defined as a premises that provides entertainment involving nude or semi-nude performers such as a strip club, or sells or shows restricted materials, but at which sex services or sexual activity between people does not occur.

The proposed trading hours for the premises are between 7.00am to 5.00am Monday to Sunday and public holidays.

The premises proposes to accommodate a total of 380 persons, including 12 staff members and 10 performers on site at any given time.

In accordance with the Minister's Direction, development applications for the purpose of restricted premises are sensitive development and must be determined by the Local Planning Panel.

The application was notified for 21 days between 11 January 2024 and 2 February 2024. Two submissions were received (one support and one objection). The NSW Police provided three submissions objecting to the application. Issues raised include the high risk nature of the proposed use, the likely negative social impacts, suitability of the site, insufficient plan of management, patron capacity and issues with liquor license.

The application has been amended to address issues identified by Council officers during assessment in relation to the maximum patron capacity (from 600 patrons to 380 patrons), location of the private rooms, design of the premises, plan of management and acoustic impact. These issues have been addressed through the submission of amended drawings and additional information received by the Council on 9 January, 24 April, 27 May and 16 July 2024.

As a result of the modifications made to the proposed development and subject to recommended conditions, the proposal is generally consistent with the objectives and applicable planning provisions in the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. The site is considered an appropriate location for the proposed use, and the use is unlikely to have adverse impacts on the surrounding locality.

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

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) City of Sydney Sex Industry and Adult Entertainment Premises Development Guidelines (October 2013).

Attachments:

- Attachment A.** Recommended Conditions of Consent
- Attachment B.** Selected Drawings
- Attachment C.** Plan of Management
- Attachment D.** Submissions
- Attachment E.** NSW Police Submission - February 2024 (Confidential)

Attachment F. NSW Police Submission - May 2024
Part 1 (Confidential)

Attachment G. NSW Police Submission - May 2024
Part 2 (Confidential)

Attachment H. NSW Police Submission - June 2024
(Confidential)

Recommendation

It is resolved that consent be granted to Development Application Number D/2023/987 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposed restricted use (adult entertainment premises) is permissible within the E1 - Local Centre zone. The proposal, subject to conditions, is consistent with the objectives of the E1 zone.
- (B) The amended Plan of Management has adequately addressed the provisions of Section 3.15.5 (Plan of Management Requirements) and Section 4.4.6.6 (Management of Operations) of the Sydney DCP 2012.
- (C) The amended proposal generally complies with the City of Sydney Sex Industry and Adult Entertainment Premises Development Guidelines (October 2013).
- (D) The proposed hours of operation, subject to the imposition of a one-year trial period, are consistent with the objectives and in accordance with the permitted hours for a Category A premises in Late Night Management area as identified in the Sydney DCP 2012.
- (E) The proposed use as an adult entertainment premises is in keeping with the unique character of the area.
- (F) The development, subject to conditions, will not unreasonably compromise the amenity of nearby properties.
- (G) The proposal, subject to conditions, is in the public interest.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 176623, Lot 1 DP 183086, known as 42 Darlinghurst Road, Potts Point. It is irregular in shape with area of approximately 335.1sqm. It has a primary street frontage of approximately 11.37m to Darlinghurst Road and a secondary street frontage of 18.39m to Kellett Way. The site is located close to the intersection of Darlinghurst Road and Roslyn Street. Levels on the site fall by 900mm from Kellett Way to Darlinghurst Road.
2. The site contains an existing two storey building with basement level which is used as a pub. There is an existing 18m high feature tower at the front of the site. The pub has been known by a number of names, including the Bank Hotel, SinCiti, Beat Bar, Leo Lounge and Hotel 42. The pub is currently vacant.
3. The subject building was designed as a local bank building by the Commonwealth Bank c1950 in a Modernist style. It is a two-storey rendered commercial building and has a distinctive rendered tower element that was used to accentuate the entry into the bank. The building is an important element in the streetscape of Darlinghurst Road and is a good example of a post-WWII bank in the Modernist style.
4. The surrounding area is characterised by a mixture of land uses, primarily being commercial, retail, licensed premises and residential developments located on adjacent streets. To the north of the site is a mixed use building with ground floor retail and backpacker's hostel above. To the south of the site is a mixed use building with ground floor retail and a licensed small bar. The past history suggests that the most recent use above relates to an unauthorised brothel, where past consents suggest it was approved as a boarding house in 1997. However the past approval history of the upper floor is unclear and could be vacant now. On the opposite side of Kellett Way to the east is a residential terrace, and a residential flat building is located in close proximity at 2 Kellett Way. To the west of the site across Darlinghurst Road are commercial premises, and a restricted premises known as 'Show Girls'.
5. The site is located within the Potts Point heritage conservation area (C51). The site is identified as a contributing building.
6. A site visit was carried out on 7 February 2024. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds



Figure 2: Site viewed from Darlinghurst Road



Figure 3: Neighbouring site at 49-44D Darlinghurst Road, including a backpacker's hostel with ground floor retail



Figure 4: Neighbouring site at 40-44B Darlinghurst Road, including a mixed use building with ground floor retail and a licensed small bar



Figure 5: The opposite side of Darlinghurst Road, including a strip club known as 'Showgirls' at 39-43 Darlinghurst Road



Figure 6: Site (in red), and neighbouring site at 40-40D Darlinghurst Road viewed from Kellett Way



Figure 7: Residential terrace (under construction) on the opposite side of Kellett Way



Figure 8: Residential flat building at 2 Kellett Way



Figure 9: Ground floor of the subject site looking east



Figure 10: Ground floor of the subject site looking west



Figure 11: Mezzanine level of the subject site



Figure 12: Basement of the subject site

History Relevant to the Development Application

Development Applications

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

- **D/2005/2222** – Development consent was granted on 5 June 2006 for alterations and additions to the whole of the building and change of use to a Hotel with Place of Public Entertainment licence and core trading hours of 7.00am to 12.00 midnight, 7 days, and extended trading hours between 12.00 midnight and 5.00am, 7 days, for a trial period.
- **D/2005/222/A to D/2005/2222/L** – The consent has subsequently been modified a number of times. The modifications generally relate to amendments to Condition 6 (Hours of Operation) the continuation of the trial period for extended hours between 12.00 midnight and 5.00am. Most recently, D/2005/2222/L was granted a two-year trial period which lapses on 10 November 2024. The plan of management allows for a maximum 500 patrons including staff and entertainers.
- **RD/2005/2222/A** – On 26 March 2019 the Review Panel considered a request to review the decision made in D/2005/2222/J to amend Condition 6 (Hours of Operation) to extend the trial period by 5 years (rather than 1 year, as approved). The panel upheld the decision and refused the request, as the venue was under new management a maximum of 1 year trial period was issued.
- **D/2013/1011** – Development consent was granted on 25 September 2013 for a new smoking/gaming room to the existing licenced hotel to accommodate 15 existing gaming machines on site, as well as modifications to the building facade, including new entry doors and windows. It is understood that the consent was not taken up.
- **D/2014/199** – Development consent was granted on 2 May 2014 for alterations to the ground floor of the existing pub known as SinCiti (licensed) to provide a new smoking room. Condition 2 required the hours of operation of the smoking room to be restricted to between 10.00am and 10.00pm Monday to Sunday, with a one-year trial period until 12.00 midnight.
- **D/2014/199/A and D/2014/199/B** – The consent has been modified twice to amend Condition 2 to continue the trial period, most recently on 14 February 2019 to continue the trial period for a further five years.
- **D/2014/803** – Development consent was granted on 14 August 2014 for alterations to the first floor, roof, and feature tower of the existing pub known as SinCiti to provide a new smoking room. The hours of operation were restricted to the indoor hours of the development. The consent was subsequently modified (D/2014/803/A) to delete the restriction from consuming beverages in the smoking room.
- **D/2020/480** - Development consent was granted on 7 January 2021 for alterations and additions to existing building including a 4 storey addition to total 6 storeys for use as hotel accommodation and retention of the existing ground floor pub. Condition 6 restricts the number of persons (including staff, patrons and performers) permitted in the ground floor pub at any one time to 120 persons, with a maximum of 40 persons within the 'external bar area'.

Compliance Action

8. The site has previously been subject to complaints where the outcome of matter is discussed below:
 - **HBC/2021/1423** - A matter relating to the allegation that internal works were being undertaken which included the construction of a 'runway' indicating the premises could be used as a restricted premises. Advice was given to the applicant stating that the development consent does not allow the use of the premises for the purpose of adult entertainment and a separate development consent would be required. The allegation of unauthorised works was investigated, and while there was evidence of minor works which are considered exempted development in accordance with Subdivision 26 Minor building alterations (internal) under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, there was no evidence of works which would indicate the premises were being used as a restricted premises.

Amendments

9. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 22 November 2023. The following information was requested:
 - (a) clarification of the nature of the restricted premises as the documentation provided is unclear;
 - (b) the SEE seeks to convert the basement level into 7 private rooms. Confirmation as to whether the pub at the ground and first floor will still be operational with the proposed restricted premises. As the subject proposal seeks to remove the existing storage rooms, dry store, keg rooms and other service facilities to service the pub at the ground and first floor, further clarification is required on where these services are going to be relocated and how the site access is managed for the pub;
 - (c) an assessment against the City's Sex Industry and Adult Entertainment Premises Development Guidelines;
 - (d) an amended plan of management prepared in accordance with Section 4.4.6.6 of the DCP;
 - (e) amended architectural plans that show what facilities are proposed in each private room. Other references of waiting rooms, fixtures and equipment in all rooms including sanitary facilities, spa baths and hand basins in the Plan of Management (POM) are to be shown on the architectural plans;
 - (f) the proposal does not have a staff room for the workers. There are no details showing any stages, podiums and other performance areas on the plans;
 - (g) clarification as to how the subject application will occur with D/2020/480 if both consents become operational; and
 - (h) a waste management plan.

10. The applicant responded to the request on 9 January 2024, and submitted the following information to respond the request:
 - (a) The proposal seeks consent for the change of use of the whole building to an adult entertainment premises. The proposed maximum patron capacity is 600 persons.
 - (b) The proposed use of the premises is primarily for an adult entertainment facility from the current approved use as a pub. Notwithstanding, the proposal involves the service of alcohol, however it will not be to a quantity or scale akin to a pub. Subsequently, the keg room and services for the current pub will be located within the existing cool room located within the basement.
 - (c) The intention of the premises owner is to obtain consent to operate the adult entertainment facility on a temporary basis for a maximum of 10 years, then take benefit of the hotel development approved under D/2020/480. Upon commencement of the hotel development, the proposed adult entertainment facility will then lapse and cease operation.
 - (d) Updated architectural plans, SEE, Plan of Management and a waste management plan were provided.

11. A further request for additional information and amendments was sent to the applicant on 22 March 2024. The following concerns were raised, and amendments were requested:
 - (a) Justification for the proposed 600 patron capacity has not been provided in the Statement of Environmental Effects. It appears that the 600 person patron capacity has been based on existing and proposed toilet facilities, as outlined within the BCA report. However, the toilet facilities are also indicated as 'does not comply' in the BCA report. A significant reduction of the patron capacity is to be made.
 - (b) Significant concerns are raised relating to the placement of the private rooms in the basement and lack of passive surveillance of the hallways due to its layout. No adult entertainment premises, including private rooms should be located in the proposed basement area. The basement should be kept as back of house.
 - (c) The submitted information does not include an assessment against the City of Sydney Sex Industry and Adult Entertainment Premises Development Guidelines (October 2013).
 - (d) The submitted POM does not address Schedule 3 Late Night Trading of SDCP 2012 and additional information is required regarding security for a Category A premises.
 - (e) Additional details are to be provided to demonstrate compliance with Section 4.4.6.4 Health, Safety and Security of the DCP.

- (f) The subject premises has a hotel liquor licence that does not permit live entertainment involving strippers or table dancers on the premises. The application seeks the approval for the change of use of the whole building to a licensed restricted premises while keeping the current hotel liquor licence. Additional information is required on how the premises is going to operate as a licensed hotel with adult entertainment.
 - (g) Under the hotel liquor licence, hotels must be open to general public and food must be made available. The proposed first/mezzanine floor plan indicates there will be no seating/ dining for food service from the kitchen. Additional information is required on how the premises is going to be operated.
 - (h) A large submission has been received from the Kings Cross Local Area Command during the notification period. It is recommended that the applicant prepare a response to the submission to address the raised concerns.
12. The applicant responded to the request on 23 April 2024 and 27 May 2024, and submitted the following information to respond the request:
- (a) The proposed maximum number of patrons has been reduced to 522 people.
 - (b) The private rooms in the basement have been relocated to the mezzanine level. The proposed basement has been amended to reflect spaces for the purpose of back of house operations.
 - (c) An amended Plan of Management was provided to address the relevant sections of the DCP.
 - (d) The proposed use of the premises does not entail any hotel use. Subsequently the matters pertaining to the liquor licence are requested to be resolved separately from the proposed consent for the use of the premises.
 - (e) The applicant submitted legal advice dated 13 May 2024 to respond the NSW Police submission, advising that the liquor licence requirements for the proposal are being attended to independently from the Council DA.
13. A further request for additional information and amendments was sent to the applicant on 3 July 2024. The following concerns were raised, and amendments were requested:
- (a) The proposed patron capacity is still excessive and is not supported. It is recommended that the proposed maximum patron capacity is to be reduced to between 350 persons to 400 persons including patrons, staff and performers on site at any given time.
 - (b) An assessment against Section 3.13.3 Social Impact of the DCP is to be provided to address the potential social impact associated with the proposed development.

- (c) An updated plan of management to address all the relevant information required by Schedule 3 and Section 4.4.6.6 of the DCP, including the number of security personnel at the premises, nature and frequency of the special events, updated floor plans, detailed procedures and provisions that will be implemented to improve premises security, identification of all likely noise and vibration sources and compliance with any requirements of all relevant acoustic reports.
 - (d) An updated acoustic statement to reflect the amendments.
14. The applicant responded to the request on 16 July and 2 August 2024. The information provided is the subject of this assessment.

Proposed Development

15. The application seeks consent for the change of use of the whole building to a licensed restricted premises, being an adult entertainment premises with internal alterations:

Proposed works

Basement

- Reconfiguration of rooms including new general staff meal area, general staff amenity room, manager's office and security station, performance amenity and change room, a new kitchen, food cool room, storage, keg and alcohol storage.

Ground Floor

- Construction of two new performance stages.
- New internal seating arrangements, two dance areas, internal waiting/screening area and a new waste room.

First floor (mezzanine level)

- Construction of new internal walls to accommodate seven private rooms, a new dance area and new seating arrangements.

Use and operation

- The proposed trading hours are between 7.00am to 5.00am Monday to Sunday and public holidays.
- A maximum patron capacity of 380 including staff, security, and patrons at any given time at the premises.
- A maximum of 12 staff members including two qualified RSA staff members and seven security staff members.
- A maximum of 10 performers.
- Minimum two security guards per 100 patrons. Extra security will be used at the discretion of management. Security guards shall remain at the premises for at least 60 minutes after closing the venue.

- The premises has only one public entry/ exit point from Darlinghurst Road (excluding emergency exits).
- Security personnel will patrol the perimeter of the venue including Darlinghurst Road and Kellett Way, which will occur at 30-minute intervals and will commence at the start of business trading hours to close of business.
- Provision of CCTV within the premises and private rooms, with footage accessible to NSW Police upon request where required.
- Installation of duress buzzers in each service, personnel private room and at the manager's desk.
- The private rooms will feature translucent glass doors, enhancing visibility and safety.
- Patrols of the bathrooms and private rooms will be conducted on a regular basis, which will all occur at 30 minute intervals and will commence at the start of business trading hours to close of business.
- Patron identification scanners will be in used in accordance with agreement with King's Cross LAC.
- The premises, and no member of staff or entertainers are permitted to offer sex services on the premises. Audience participation is prohibited.
- The bar will close at 3:30am.

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

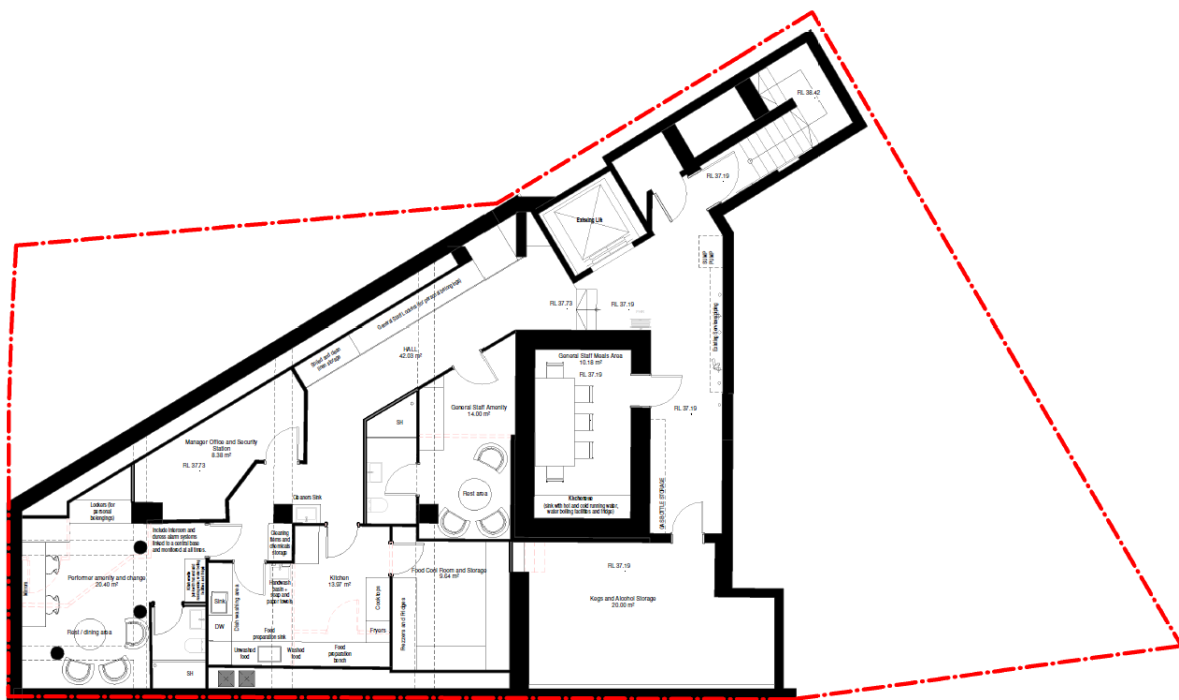


Figure 13: Proposed basement plan

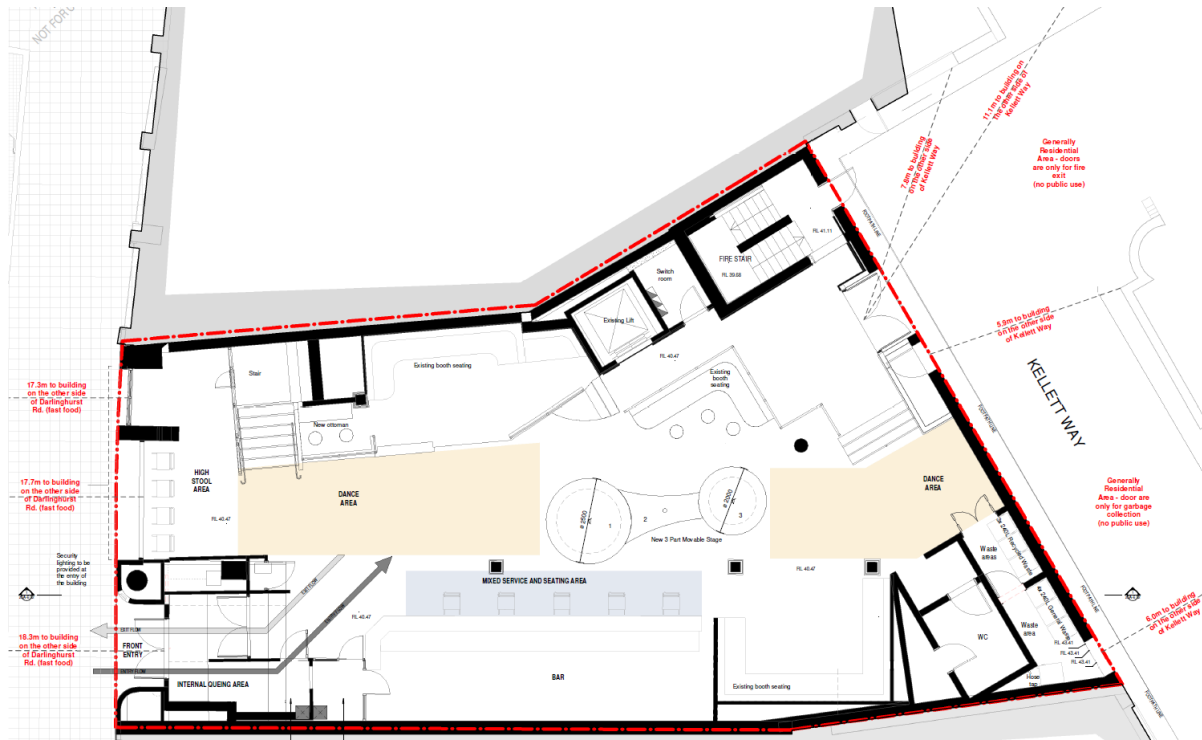


Figure 14: Proposed ground floor



Figure 15: Proposed mezzanine level

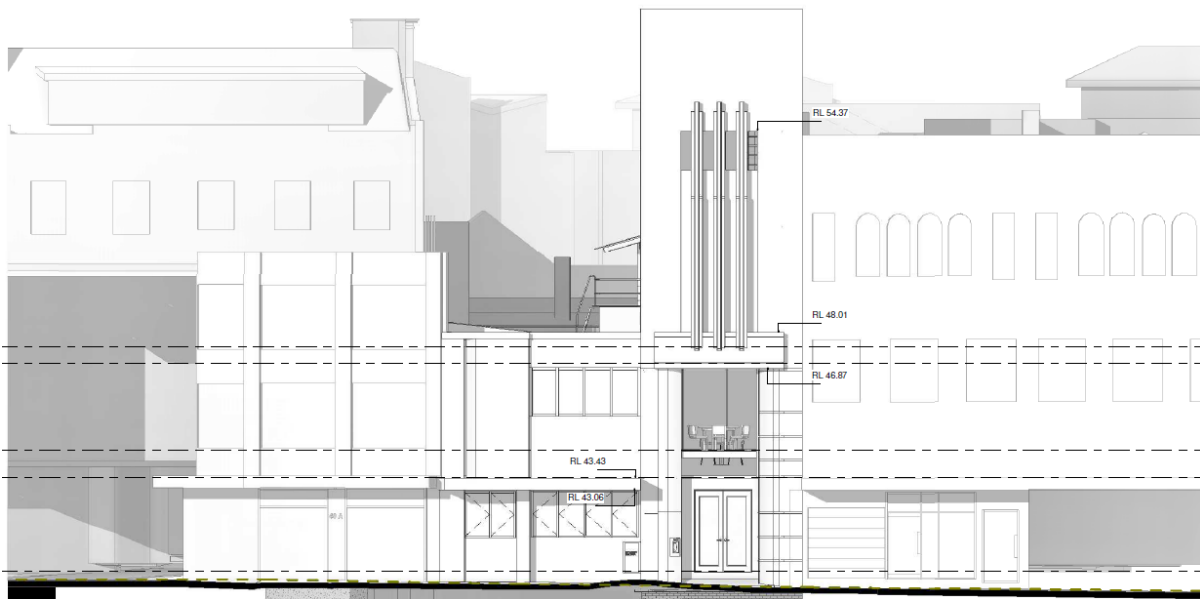


Figure 16: Darlinghurst Road Elevation (no external works proposed)

Assessment

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

State Environmental Planning Policies

Sydney Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 6 Water catchments

18. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of Chapter 6 of the above SEPP. In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider the controls set out in Division 2.
19. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the control of improved water quality and quantity, the controls set out in Division 2 of the SEPP are not applicable to the proposed development.

Local Environmental Plans

Sydney Local Environmental Plan 2012

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

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	<p>The site is located in the E1 Local Centre zone. The proposed development is defined as restricted premises and is permissible with consent in the zone.</p> <p>The proposed development is generally consistent with the objectives of the zone as it provides a different use that serves the needs of people who live in, work in or visit the area.</p>

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	<p>A maximum building height of 22m is permitted.</p> <p>The proposed development does not change the existing height of the building.</p>
4.4 Floor space ratio	Yes	<p>A maximum floor space ratio of 3:1 or 1005.3sqm is permitted.</p> <p>A floor space ratio of 1.93:1 or 648.58sqm is proposed.</p> <p>The proposed development complies with the maximum floor space ratio development standard.</p>

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is located within the Potts Point heritage conservation area C51.</p> <p>The proposed development includes minor internal alterations which does not have a detrimental impact on the heritage significance of the heritage conservation area.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	Subject to conditions, the proposal will not create any unacceptable noise impacts to the surrounding residential and commercial premises.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
Other land uses	Yes	No car parking spaces are proposed.
7.21 Location of sex services premises	N/A	The proposal is not defined as a sex service premises and this clause does not apply.

Development Control Plans**Sydney Development Control Plan 2012**

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

Section 2 – Locality Statements

22. The site is located within the Kings Cross locality. The proposal is consistent with the locality statement as it supports a mix of day and night time activities along Darlinghurst Road and provides an entertainment use that contributes to the local, regional and international function of Kings Cross.

Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.
3.9 Heritage	Yes	The site is located within the Potts Point heritage conservation area C51. The

Provision	Compliance	Comment
		<p>building is identified as a contributing building.</p> <p>The proposal includes minor internal alterations, with no external works proposed. The proposal was reviewed by Council's heritage specialist and no objections are raised. The minor internal works are not considered to detrimentally impact on the significance of the heritage conservation area.</p>
3.11 Transport and Parking	Yes	The proposal was reviewed by Council's Transport and Access Unit and no objection was raised.
3.12 Accessible Design	Yes	The application was accompanied by a BCA report prepared by BCA Performances. The proposal was reviewed by Council's Construction and Building Unit and no objection was raised. A condition has been recommended for the proposed development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and BCA requirements.
3.13 Social and Environmental Responsibilities	Yes	The proposal was amended to address the potential social impacts of the proposed use. See further details in the 'Discussion' section below.
3.14 Waste	No	<p>The submitted Waste Management Plan does not comply with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p> <p>See further details in the 'Discussion' section below.</p>
3.15 Late Night Trading Management	Yes	The premises is located in a Late Night Management Area. A Category A use within this area is permitted to operate with base hours of 6.00am to 12.00 midnight, every day, with extended hours permitted 24 hours per day.

Provision	Compliance	Comment
		The proposed trading hours are between 7.00am to 5.00am Monday to Sunday and public holidays. See further details in the 'Discussion' section below.
3.16 Signage and Advertising	N/A	No signage is proposed.

Section 4 – Development Types

4.4 Other Development Types and Uses

4.4.6 Sex industry premises and adult entertainment

Provision	Compliance	Comment
4.4.6 Definitions	N/A	The proposed use meets the following definitions: Adult entertainment premises means a premises that: (a) provides entertainment involving nude or semi-nude performers; or (b) sells or shows restricted material but at which sex services or sexual activity between people does not occur. Striptease club means premises providing striptease acts, erotic dancing (including pole dancing), tabletop, or podium performances, private dancing, peepshows, or nude or semi-nude bar or waiting staff but where sex services do (not) take place on site. Note: The word 'not' is omitted from the DCP definition in error.
4.4.6.1 Location of premises	No	The site is located directly opposite land developed for residential purposes and is located within a radius of 75m of existing approved adult entertainment premises and sex industry premises. See further details in the 'Discussion' section below.

Provision	Compliance	Comment
4.4.6.2 Design of premises	Partial compliance	<p>The proposal is generally consistent with the DCP provisions relating to entrances and exits.</p> <p>However, Section 4.4.6.2(5) of the DCP requires that the interior of the premises must not be visible from any place in the public domain. The existing building contains large glazed windows at the ground floor through which the interior of the premises will be highly visible from Darlinghurst Road as illustrated in Figure 10 above.</p> <p>As such, a condition has been recommended requiring that an internal screen such as blinds or shutter curtains to be installed internally to comply with this control.</p>
4.4.6.4 Health, safety and security	Yes	<p>The amended proposal has generally been designed to comply with the health, safety and security requirements of the DCP including:</p> <ul style="list-style-type: none"> • Adequate staff facilities including sanitary facilities, rest seating area, dining area and kitchen area, and lockers to store personal belongings are provided in the basement floor. • The staff facilities are located within the premises in the basement level and is inaccessible to visitors. • CCTV cameras will be installed in the premises including entrance, emergency exit and private rooms. • The proposal includes two private stages at ground level and seven private stages in seven private rooms at mezzanine level. The proposed private stages are greater than 2.5sqm, 0.5m from the floor and a minimum of 2.5m clearance from the ceiling. • Duress alarm systems will be placed in each service area,

Provision	Compliance	Comment
		<p>personnel areas, private room and at the manager's desk.</p> <ul style="list-style-type: none"> The security staff will be responsible for screening patrons prior to entry and will be required to carry portable telecommunication devices to ensure contact with police is possible where required. <p>Furthermore, the applicant has outlined attending health, safety, security and related meetings and seminars convened by Sex Workers Out Reach Project (SWOP). It has also advised relevant cleaning schedules, waste disposal and safe disposal of sharps.</p>
4.4.6.5 Signs	No	<p>The proposal does not include any signs.</p> <p>However, the DCP requires that signage is to set out the name of the person or registered name of the business, and the words "RESTRICTED PREMISES".</p> <p>As such, a condition has been recommended requiring a sign to be designed and displayed in accordance with Section 4.4.6.5 of the DCP.</p>
4.4.6.6 Management of operations	Yes	<p>Applications for adult entertainment and sex industry premises must be accompanied by a Plan of Management describing how ongoing operations are to be managed.</p> <p>The amended Plan of Management has adequately addressed all of the requirements of the DCP and is supported by Council's Safe City Unit.</p> <p>See further details in the 'Discussion' section below.</p>

Sex Industry and Adult Entertainment Premises Guideline

23. The City of Sydney Sex Industry and Adult Entertainment Premises Guideline (October 2013) provides advice on the basic information required for those who are considering seeking consent for any type of adult entertainment and/ or sex industry premises.
24. An assessment of the proposed development against the relevant provisions within the Guideline is provided in the following sections.

Provision	Compliance	Comment
1.23.1 General	Yes	The Plan of Management states that no audience participation is permitted within the premises at all times. Performers are located on the podium stage and customers will not be allowed to access the podium stage at any time during performances.
1.23.2 Cleanliness	Yes	The Plan of Management states that the business will engage a contract cleaner on a daily basis. The managers, staff and workers attend to all other daily cleaning and maintenance and spot cleaning requirements.
1.23.3 Equipment and sex toys	Yes	No sex toys or products are proposed to be used within the premises.

Discussion

Location of Premises in relation to residential uses

25. Section 4.4.6.1 of the Sydney DCP 2012 provides specific provisions in relation to the location of adult entertainment premises. The proposal does not comply with the location provisions of the DCP as residential land uses are located immediately opposite the subject site to the east.
26. The DCP states that the location of adult entertainment premises is not suitable in locations adjacent to or opposite from residential uses or other sensitive uses. Section 4.4.6.1(c) allows for an expectation from residential occupants that their amenity, especially regarding social amenity and safety, will not be adversely impacted by the location of these premises. The provisions require that these uses should be physically separated from residential and sensitive uses by other commercial uses.
27. As shown in Figure 17 below, the premises is located close to residential uses (Being No 2 and No 42 Kellett Way) located immediately opposite the site across Kellett Way.

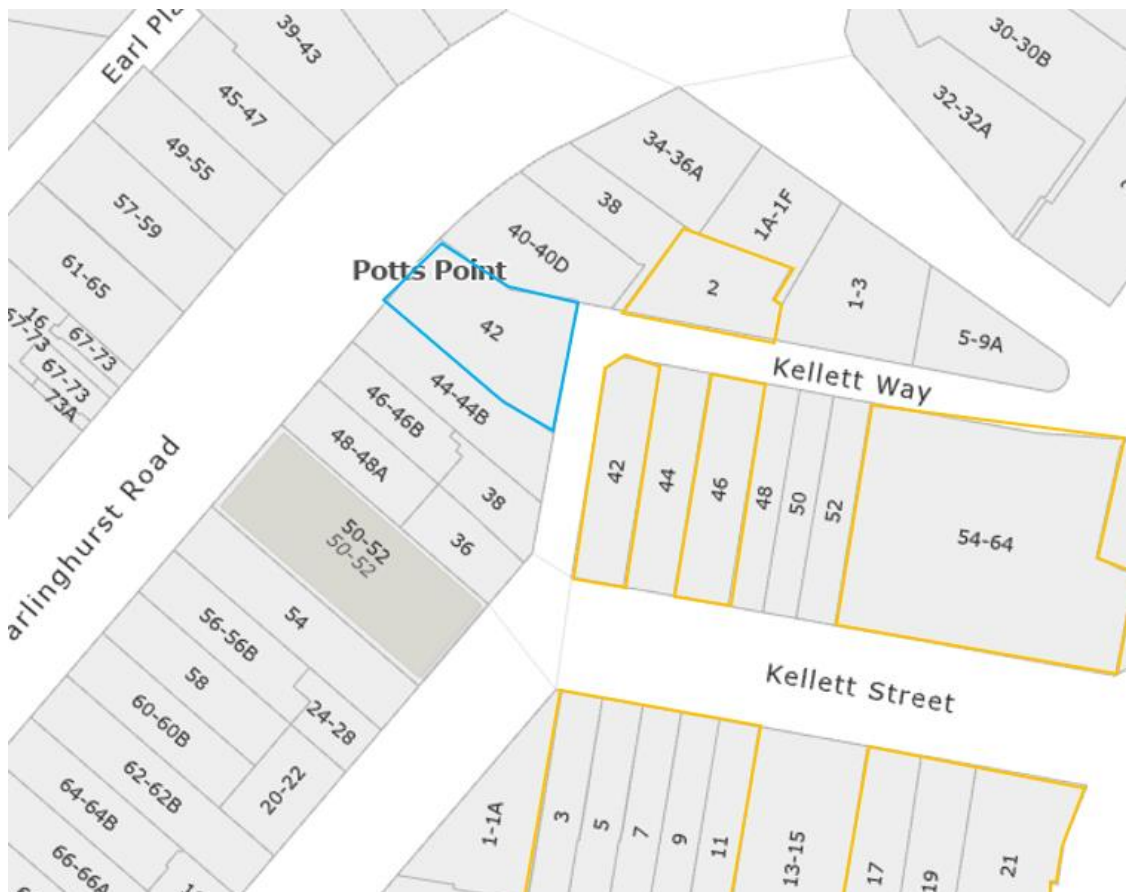


Figure 17: A location plan indicating the subject site in blue and the residential uses in orange

28. It should be noted that another adult entertainment premises at 13-15 Kellett Street, Potts Point was approved by Court (D/2019/1135) on 10 January 2022, also known as Williams v Council of the City of Sydney (No 2) [2022], where the site is located within a residential area and surrounded by residential uses. This approved adult entertainment premises is located approximately 70m south of the subject site.
29. It is also noted that there are no residential dwellings within the subject building. The subject site is located on the main street, being Darlinghurst Road of the Potts Point/Kings Cross area. The area comprises a number of commercial, retail and late night venues including adult entertainment. The proposed use is permissible within the E1 Local Centre zone and is consistent with the objectives of zone.
30. In addition, the submitted POM states that the premises has only one public entry/exit point from Darlinghurst Road to minimise any potential impacts onto the residential areas to the east, and the access on Kellett Way will only be used as an emergency exit. The POM also states that security personnel will patrol the perimeter of the venue including Darlinghurst Road and Kellett Way, which will occur at 30-minute intervals and will commence at the start of business trading hours to close of business. Between 12.00 midnight and 7.00am, the use of the premises shall not result in LA10 noise level in any octave band exceeding the background noise level at the boundary of any affected residential property.

31. Council's Health, Safe City and Licensed Premises teams have all reviewed the proposal and the submitted Plan of Management (POM) and consider it to be acceptable. Through the implementation of the POM and suitable conditions regarding noise, health, management and safety, the operation of the premises is considered unlikely to cause a disturbance in the neighbourhood and is supported in this instance, despite the non-compliance with the location provision of the DCP.

Location of Premises in relation to adult entertainment or sex industry premises

32. Section 4.4.6.1 of the DCP states that adult entertainment and sex industry premises must not be located within a radius of 75m of an existing, approved adult entertainment or sex industry premise as measured from the centre of the primary access to the proposed and existing premises.
33. There are seven existing or approved brothels, and two adult entertainment premises located within a 75 metre radius of the subject premises, these include:
- (a) 39-43 Darlinghurst Road, Potts Point - Adult entertainment premises known as "Showgirls" and a maximum patron capacity of 200 persons. The site is located approximately 20m opposite the subject site across Darlinghurst Road.
 - (b) 34-36A Darlinghurst Road, Potts Point - Use of first floor as brothel. The site is located approximately 20m north of the subject site.
 - (c) 56-56B Darlinghurst Road, Potts Point - Use of first and second floor as brothel. The site is located approximately 45m south of the subject site.
 - (d) 60-60B Darlinghurst Road, Potts Point - Use of third and fourth level as brothel. The site is located approximately 75m south of the subject site.
 - (e) 13-15 Kellett Street, Potts Point - Use of ground floor as adult entertainment premises known as the Dollhouse Nightspot and a maximum patron capacity of 180 persons. The site is located approximately 70m south of the subject site.
 - (f) 20-22 Kellett Street, Potts Point - Use of the premises as a brothel. The site is located approximately 60m south of the subject site.
 - (g) 48 Kellett Street, Potts Point - Use of the premises as a brothel. The site is located approximately 30m east of the subject site.
 - (h) 50 Kellett Street, Potts Point - Use of the premises as a brothel. The site is located approximately 30m east of the subject site.
 - (i) 44-44B Darlinghurst Road, Potts Point - Use of the premises as a brothel. The site is adjacent to the subject site to the south.



Figure 18: A location plan showing the existing brothels (in red) and adult entertainment premises (in yellow) within a 75m radius of the premises

34. It should be noted that there are existing adult entertainment premises (13-15 Kellett Street, Potts Point) and sex industry premises (34-36A Darlinghurst Road, Potts Point) that have been approved under SLEP 2012 and SDCP 2012. These premises also do not comply with Section 4.4.6.1 of the DCP regarding the 75m radius control. There are two adult entertainment premises located within 75m radius of the subject site.
35. While these premises are within a 75m radius of the site, the POM for the proposed premises requires there be only one public entry/exit point from Darlinghurst Road and the exit on Kellett Way will only be used as an emergency exit. As such, the potential impacts to the adult entertainment premises (13-15 Kellett St) and sex industry premises (20-22, 48 and 50 Kellett Street) are considered minimal.
36. There is also an existing adult entertainment premises (39-43 Darlinghurst Road) and several sex industry premises (34-36A, 44-44B, 56-58B and 60-60B Darlinghurst Road) located within 75m radius of the site on Darlinghurst Road, however the existing developments along Darlinghurst Road comprise a number of commercial, retail and late night venues including adult entertainment.

37. The POM for the proposed premises states that the management of queues will be in accordance with online ticket sales and bookings, which will involve staggered entry times to ensure an even flow of patrons to the site and minimising excessive numbers of patrons in the internal queuing area and public domain at busy times. Patrons will be guided by security and staff to leave the venue in staggered groups when necessary to prevent congestion. The bar will close at 3:30am, and the music will be gradually altered to pacify patrons for a smoother dispersal. Security staff will patrol the footpath directly outside the venue and will be trained in crowd management.
38. Subject to compliance with the POM, the proposal will not result in a cumulative adverse impact of these adult entertainment venues and sex industry premises on the surrounding area and is supported in this instance, despite the non-compliance with the location provision of the DCP.

Late Night Trading Management

39. The premises is located in a Late Night Management Area. A Category A use within this area is permitted to operate within the base hours of 6.00am to 12.00 midnight, every day, with extended hours permitted 24 hours per day.
40. The proposed trading hours are between 7.00am to 5.00am Monday to Sunday and public holidays. The proposed trading hours comply with the extended hours in the DCP.
41. Section 3.15.4 of the DCP requires trial periods to be applied for the extended trading hours. As such, the proposed trading hours between 12.00midnight and 5.00am is supported subject to a one-year trial, allowing Council to monitor the operation of the premises. A renewal application should be lodged 30 days prior to the expiry period.
42. As detailed in the NSW Police comments further in this report, concern is raised in regard to the high risk nature of the proposed use and proposed hours of operation, which the Police submit leads to an increase in criminality in and around licensed premises.
43. Section 3.15.3 of the DCP outlines matters for consideration, which include, amongst others, the following:
 - (a) The location and context of the premises, including proximity to residential and other sensitive land uses and other late night trading premises;
 - (b) The specific nature of the premises, its activities and the proposed hours of operation;
 - (c) The likely impact on the amenity of surrounding sensitive land uses, including noise, and the ability to manage the impacts;
 - (d) The size and patron capacity of the premises;
 - (e) Submission of a plan of management that demonstrates a strong commitment to good management of the operation of the business, particularly in relation to managing potential impacts on adjoining and surrounding land uses and premises, as well as the public domain;
 - (f) Measures to be used for ensuring adequate safety, security and crime prevention both on the site of the premises and in the public domain immediately adjacent to, and generally surrounding, the premises.

44. The site was previously approved as a pub with a maximum patron capacity of 500 persons. The proposal seeks consent for the change of use to an adult entertainment premises. The proposal was amended to reduce the patron capacity significantly from 600 to 380 persons including staff, security, and patrons at any given time at the premises. The proposed use is permissible within the E1 Local centre zone and the proposed trading hours complies with the permissible hours in the DCP. The amended POM demonstrates commitment to good management of the operation of the business and increased security measures have been implemented to safeguard the community.
45. The proposal is accompanied by a Plan of Management which was amended to comply with the relevant controls of Schedule 3 and Section 4.4.6.6 of the DCP, including:
- (a) At least two security staff members for every 100 patrons, or provision of seven security staff per 380 patrons.
 - (b) Extra security will be used at the discretion of management. Security guards shall remain at the premises for at least 60 minutes after closing the venue.
 - (c) The premises has only one public entry/ exit point from Darlinghurst Road (excluding emergency exits).
 - (d) Security personnel will patrol the perimeter of the venue including Darlinghurst Road and Kellett Way, which will occur at 30-minute intervals and will commence at the start of business trading hours to close of business (Refer to Figure 19 below regarding the external security patrol areas).
 - (e) Patrols of the bathrooms and private rooms will be conducted on a regular basis, which will all occur at 30 minute intervals and will commence at the start of business trading hours to close of business.
 - (f) Provision of CCTV within the premises and private rooms, with footage accessible to NSW Police upon request where required.
 - (g) Installation of duress buzzers in each service, personnel private room and at the manager's desk.
 - (h) The private rooms will feature translucent glass doors, enhancing visibility and safety.
 - (i) Patron identification scanners will be in used in accordance with agreement with King's Cross LAC.
 - (j) The management of queues will be in accordance with online ticket sales and bookings, which will involve staggered entry times to ensure an even flow of patrons to the site and minimize excessive numbers of patrons in the internal queuing area, and to ensure minimal queuing on the public domain.
 - (k) The premises, and no member of staff or entertainers are permitted to offer sex services on the premises. Audience participation is prohibited at busy times.
 - (l) All entry doors within the development should remain closed at all times, exclusive of patron ingress and egress.

- (m) Where appropriate, acoustic seals on entry doors from the bounding roads (Darlinghurst Road and Kellett Way) should be installed to reduce overall noise spill from internal activity to external areas.
- (n) The use of the premises shall not result in the LA10 noise level being emitted from the licensed premises exceeding the background noise level in any octave band (from 31.5 Hz to 8KHz centre frequencies inclusive) by more than 5dB between 7.00am and 12.00 midnight at the boundary of any affected residential property.
- (o) Between 12.00 midnight and 7.00am, the use of the premises shall not result in LA10 noise level in any octave band exceeding the background noise level at the boundary of any affected residential property.

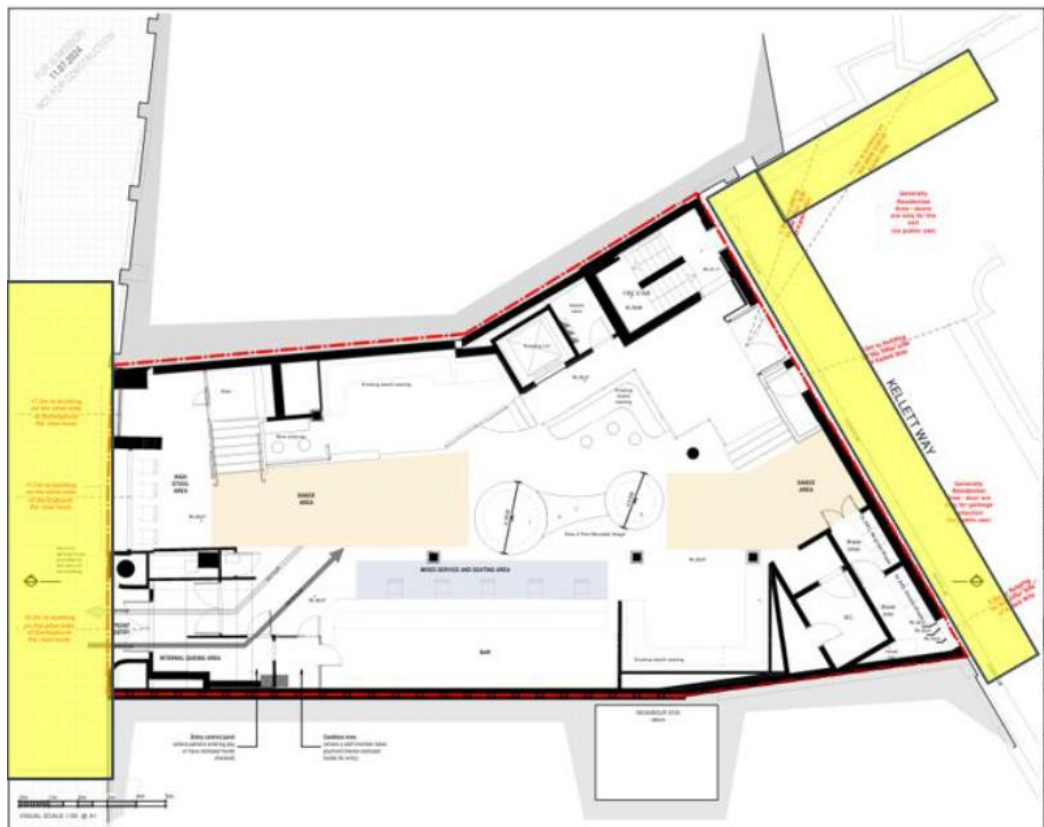


Figure 19: External security patrol areas are highlighted in yellow

46. The proposal was reviewed by Council's Health, Safe City and Licensed Premises who advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the recommended conditions in Attachment A.

Social impact and patron capacity

47. Section 3.13.3 of the DCP requires that social impacts are to be addressed in the Statement of Environmental Effects accompanying a development application. At a minimum, the Statement of Environmental Effects is to consider:
- (a) the potential social impacts;
 - (b) the scale of those impacts;

- (c) the likely extent of those impacts including when and where they might occur;
 - (d) outcomes of any discussions with affected people or groups; and
 - (e) any measures to maximise the positive impacts and eliminate or minimise negative impacts.
48. As detailed in the NSW Police comments further in this report, concern is raised with regard to the high risk nature of the proposed adult entertainment use, the patron capacity, the potential social impacts and the cumulative impact that would negatively impact the Kings Cross precinct. In particular, the Police advise that adult entertainment premises are widely regarded as prone to illegal activity such as drug use/dealing, organised crime and corruption and the proposed development would create an increased risk of anti-social behaviour, and public and domestic violence in the immediate vicinity of the site.
49. The SEE was amended to provide an assessment of the social impacts of the proposed development. The assessment concludes the proposed change of use to a licensed restricted premises will not result in any undue negative social impact upon the subject site and adjoining public domain. The proposed use of the premises may potentially give rise to attracting intoxicated members of the public, and potential acoustic nuisance to adjacent land uses. However, the scale of the potential impact is considered limited, is consistent in the context to the subject site and the commercial nature of the Kings cross late night entertainment precinct within which the subject site is located and can be managed by conditions of consent.
50. The abovementioned potential impacts are likely to occur during late night trading hours and may occur as patrons exit the premises upon closure of the venue, as such, the POM was amended to increase the security ratio to at least 2:100 patrons. There will be no entry/exit on Kellett Way to protect the residential area to the east. Security personnel will undertake regular patrols of the perimeter of the venue along Darlinghurst Road and Kellett Way at a 30-minute interval during business trading hours. Security guards shall remain at the premises for at least 60 minutes after closure of the venue. The premises will include CCTV cameras, identification scanners and metal and weapon detection devices to safeguard the community. In addition, the POM was amended to include the adoption of alcohol harmonisation and crowd management procedures which will minimise disturbance within the local neighbourhood.

Acoustic impacts

51. An acoustic letter prepared by Acoustic Logic was submitted with the application which states the premises will comply with the relevant noise criteria.
52. The acoustic letter refers to the previous approvals for the use of the premises as a pub, and states that the reduction from 500 patrons to 380 patrons would have a significant positive impact on the overall airborne noise impact of the venue on surrounding noise sensitive receivers. The letter states that the proposed use is considered to generate lower noise levels from amplified music when comparing to the previously approved pub, therefore at a worst case, the noise levels generated by the amplified music within the proposed operation would be equal to the noise levels generated by the approved operation.

53. In addition, the letter recommends that all entry doors within the development should remain closed at all times, exclusive of patron ingress and egress. Any required amplified music systems supplementary to the existing speaker system should be appropriately vibration isolated as to not induce structure-borne noise, and details of this system should be provided to an acoustic consultant for review.
54. The acoustic letter was reviewed by Council's Health and Building team and is generally supported, appropriate noise conditions have been included in the notice of determination.

Waste Management

55. A waste management plan was submitted to accompany the application. The proposal was reviewed by Council's waste management team and the submitted waste management plan is insufficient.
56. The waste storage area is insufficient for the maximum daily patronage and hours of operation of the business. The current architectural plans show that the waste storage area is only able to hold 3 x 240 recycling bins and 3 x 240 general waste bins, which is insufficient given the proposed 380 patron capacity.
57. To address the above, a condition has been recommended requiring the waste storage area to be enlarged to provide for two days of waste storage based on the proposed development floor space and waste generation rates for pub /clubs as per Council's Guidelines for Waste Management in New Developments 2018. A review of the floor plan illustrates that adequate space is available near the bin room for this reconfiguration.

Liquor License

58. In the first submission received from the NSW Police, objections were raised regarding compliance with the current liquor license which prohibits 'live entertainment involving strippers or table dancers'. The Police reported that a previous attempt by the applicant to remove this condition was refused by the Independent Liquor and Gaming Authority in 2016.
59. The applicant provided legal advice dated 13 May 2024 stating that liquor license requirements would be addressed separately from the Council's Development Application (DA) process. They requested that these objections be set aside and resolved through the Liquor and Gaming Authority's process, allowing development consent to be granted.
60. As noted in NSW Police's third submission, the liquor license condition restricting adult entertainment has since been removed. Nevertheless, the requirement for an application to comply with the Liquor Act was removed some years ago, and a consent authority can approve a development consent that does not comply with the Liquor Act. As such, compliance with Liquor Act is not a factor that is considered in the assessment of this DA.

Consultation

Internal Referrals

61. The application was discussed with Council's:
 - (a) Construction and Building Unit;
 - (b) Environmental Health Unit;
 - (c) Licenced Premises Unit;
 - (d) Heritage and Urban Design Unit;
 - (e) Safe City Unit;
 - (f) Transport and Access Unit;
 - (g) Tree Management Unit; and
 - (h) Waste Management Unit.
62. The issues raised in the referral responses have been discussed elsewhere in this report. See further details in the 'Discussion' section above.

External Referrals

NSW Police

63. The application was referred to NSW Police for comment.
64. The Kings Cross Police Area Command do not support the application due to the likely negative social impacts, suitability of the site, insufficient plan of management, no justification on the proposed patron capacity and compliance with the current liquor license. The full submission is provided in Attachment E.
65. The NSW Police provided a submission on 2 February 2024 objecting to this application on the following basis:
 - (a) **Issue:** The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, in accordance with Clause 4.15(1)(b) of the Environmental Planning and Assessment Act 1979.

Comment: The likely impacts associated with the proposed development and mitigation measures and conditions are outlined in the report and are considered acceptable. The proposal has been amended to reduce the patron capacity significantly and is accompanied by a detail POM and acoustic letter that is supported by Council's Health, Safe City and Licensed Premises Unit. Subject to conditions, the proposal will not negatively impact the locality.
 - (b) **Issue:** The site is not suitable for the proposed development and is inconsistent with Clause 4.15(1)(c) of the Environmental Planning and Assessment Act 1979.

Comment: The site is a permissible use with consent in the E1-Local Centre zone. As a result of modifications and subject to recommended conditions, the proposal is generally consistent with the objectives and applicable planning provisions in the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. The site is considered an appropriate location for the proposed use, and the use is unlikely to have adverse impacts on the surrounding locality.

- (c) **Issue:** The proposal is not in the public interest and is inconsistent with Clause 4.15(1)(e) of the Environmental Planning and Assessment Act 1979.

Comment: The proposal is in the public interest for the reasons outlined throughout the report. The proposed use is a permissible use in the E1 zone and is consistent with the objectives of the zone. The proposal has been assessed against the relevant controls in Sydney LEP 2012 and DCP 2012 and is shown to be acceptable.

- (d) **Issue:** The proposed use without any change to the premises liquor licence type and authorisation and any continued sale or supply of liquor would be contrary with the premises current liquor licence type, conditions, and authorisations, specifically Section 15 Liquor Act 2007, hotel primary purpose test provisions.

Comment: As discussed above, compliance with Liquor Act is not considered in the assessment of this DA. Appropriate liquor licence will be required from NSW Liquor and Gaming prior to operation of the premises.

- (e) **Issue:** The proposal is inconsistent with the aims of the Plan under Clause 1.2(h) of the Sydney LEP 2012 to enhance the amenity and quality of life of local communities.

Comment: Through the implementation of the POM and the recommended conditions regarding noise, health, management and safety, the operation of the premises is unlikely to diminish the amenity and quality of life of local communities. Furthermore, the proposal is consistent with Clause 1.2(f) of the LEP by providing different services that meets the needs of residents, works and visitors, and Clause 1.2(i) by providing mixed-use centres to promote the economic strength of those centres.

- (f) **Issue:** The proposal relies on unauthorised works that have been carried out to the premises, and these works do not exhibit design excellence and detract from the significance of the heritage item which is inconsistent with Clause 6.21 (Design Excellence) and Clause 5.10 (Heritage conservation) of the Sydney LEP 2012 and Section 3.9 (Heritage) of the Sydney DCP 2012.

Comment: As discussed above, the allegation of unauthorised works was investigated, and while there was evidence of minor works, these are considered exempt development in accordance with the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. In addition, the current proposal was reviewed by Council's heritage specialist and no objections were raised.

- (g) **Issue:** The proposed use as an adult entertainment premises is inconsistent with the provisions of Section 4.4.6.1 (Location of Premises) of the Sydney DCP 2012 due to its proximity to residential uses and other sex industry premises.

Comment: The proposal does not fully comply with this DCP provision. However, there are no residential dwellings within the subject building. The POM requires that the only public entry/exit for the premises is via Darlinghurst Road, which protects the residential amenity across Kellett Way to the east. The proposal is accompanied by a detailed POM which demonstrates commitment to good management of the operation of the business and is supported by Council's Licensed Premises unit and Safe City Unit.

- (h) **Issue:** The proposal is shown to be inconsistent with the following objectives of the Zone E1 Local Centre zone of the Sydney LEP 2012, the zone the subject site is located.

Comment: The objectives of the E1 Local Centre zone are:

- To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.
- To encourage investment in local commercial development that generates employment opportunities and economic growth.
- To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council's strategic planning for residential development in the area.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To maximise public transport patronage and encourage walking and cycling.

The proposal is consistent with the objectives of the E1 Local Centre zone. The proposal provides a different use that serves the needs of the community and encourages investment in the local development that generates employment opportunities.

- (i) **Issue:** It is considered that the proposed development is not substantially the same as the original consent as the proposal includes the change of use.

Comment: The subject application is a development application, not a modification application. Therefore the 'not substantially the same' test is not applicable.

- (j) **Issue:** The proposed development by way of its scale, character and operation are likely to have significant and unacceptable impacts.

Comment: The proposal has been amended significantly to reduce the patron capacity from 600 persons to 380 persons. The POM has been amended to include increased security ratio, regular patrols of the internal and external areas of the premises, noise and acoustic management, and complies with the relevant controls in the DCP. Through the implementation of the POM and suitable conditions regarding noise, health, management and safety, the operation of the premises is unlikely to cause significant and unacceptable impacts in the neighbourhood.

- (k) **Issue:** The proposal provides inadequate staff facilities and is inconsistent with the provisions of Section 4.4.6.4 (Health, Safety and Security) of the Sydney DCP 2012.

Comment: The proposal has been amended to relocate the private rooms in the basement to the mezzanine floor. Adequate staff facilities have been provided in the basement level including sanitary facilities, a rest area with seating, a dining area with food preparation and storage areas, kitchen facilities for lockers to store personal belongings. The proposal has been reviewed by Council's Safe City Unit and no objections were raised.

- (l) **Issue:** The proposed hours of operation are inconsistent with Kings Cross special precinct 3:30am cessation of alcohol statutory requirement which is distinct from the provisions of Section 3.15 (Late Night Trading Management) of the Sydney DCP 2012.

Comment: As discussed above, compliance with Liquor Act is not a consideration in the assessment of this DA. A 3.30am cessation of liquor service does not prohibit the proposed use. Nevertheless, the submitted POM also states that the bar will be closed at 3:30am.

- (m) **Issue:** Insufficient information is provided addressing how the proposed use will comply with the premises liquor licence type and licence authorisations, namely as a hotel licence with a minor's area authorisation.

Comment: As discussed above, compliance with Liquor Act is not a factor that is considered in the assessment of this DA. Appropriate liquor licence will be required from NSW Liquor and Gaming prior to operation of the premises.

- (n) **Issue:** The submitted Plan of Management has not adequately addressed the provisions of Section 3.15.5 (Plan of Management Requirements) and Section 4.4.6.6 (Management of Operations) of the Sydney DCP 2012.

Comment: As discussed throughout this report, the POM has been amended to address relevant provisions of Section 3.15.5 and Section 4.4.6.6 of the DCP. The POM has been reviewed by Council's Safe City Unit and Licensed Premises Unit and no objections were raised.

- (o) **Issue:** Insufficient information is provided addressing the potential social impacts of the proposed use, in particular to adjoining residential uses, in accordance with Section 3.13 (Social and Environmental Responsibilities) of the Sydney DCP 2012.

Comment: The SEE has been amended to provide an assessment of the potential social impacts of the proposed use and is considered acceptable. The patron capacity has been reduced significantly from 600 to 380 persons. In addition, the POM also requires that the only entry/exit of the premises is from Darlinghurst Road, which minimises any potential impacts to the residential areas to the east.

66. On 4 May 2024, the NSW Police provided a further revised submission based on the amended package (see Attachments F and G). This revised submission reiterates the objections raised in the first submission as detailed above, with the following additional objections:

Issues:

- (i) The proposed patron capacity of the premises has no basis in law and does not comply with relevant building code and fire safety regulation.
- (ii) A total of 93 annexures supporting the objections. The annexures includes a decision from the Independent Liquor and Gaming Authority - which refuses the application by the Bank Hotel for the revocation of the liquor licence condition that does not permit live entertainment involving strippers or table dancers on the premises, as dated 31 January 2016; decision on the Bada Bing nightspot where the subject applicant is the director; decision on the Dream Girls night club which demonstrates bad management leading to suspension of licence, and news articles regarding other crime related activities in relation to entertainment use/strip club, in particular high risk of shooting, robbery, drug use or dealing, alcohol-fuelled violence and organised crime and corruption.

Comment: The proposal has been amended further to reduce the patron capacity to 380 persons. A detailed POM has been submitted which demonstrates commitment to good management of the operation of the business and is supported by Council's Safe City Unit and Licensed Premises Unit. The proposal is also accompanied by a BCA report and is supported by Council's Construction and Building Unit.

While the annexures provided by the police relate to other strip clubs containing criminal elements, it is insufficient to assert that because illegality has taken place at those premises, it follows that the same will occur at the proposed strip club. Nevertheless, the extended trading hours between 12.00midnight and 5.00am of the premises is recommended to be subject to a one-year trial, allowing Council to monitor the operation of the premises.

67. On 6 June 2024, the NSW Police provided a further email stating that a meeting was held between the police and the applicant on 5 June 2024. This correspondence is provided in Attachment H. The following additional information was provided:

Issues:

- (i) Police raised certain criminal history of the applicant which they believe is relevant to the current application. The applicant pleaded guilty to one count of bribing a police officer and was sentenced to imprisonment for two years with a non-parole period of nine months.
- (ii) The applicant was subject to certain Liquor and Gaming NSW regulatory complaints as the director of the operator (lessee) of Bada Bing Nightspot (adult entertainment premises - strip club), following numerous incidents of crime and disturbance during late trading hours at the Bada Bing, resulting in a decision to reduce the extended licensed trading hours of the Bada Bing, and the temporary imposition of a liquor licence condition (which has since been removed) on the premises of 42 Darlinghurst Road, subject of this application, being: 'No live entertainment involving strippers or table dancers is to be permitted on the premises (the Adult Entertainment Condition)' because of police and the Authorities concerns that the Police application in respect of Bada Bing may result in a change of business practices at the Bank Hotel.

Comment: There are no 'good character' provisions required in a DA assessment and the above concerns are not planning related matters for assessment under 4.15 of the Environmental Planning and Assessment Act 1979.

Advertising and Notification

68. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 21 days between 11 January 2024 and 2 February 2024. A total of 284 properties were notified and two (2) submissions were received (one in support and one objecting).

69. The submissions raised the following issues:

- (a) **Issue:** Consideration should be given to improving the amenity of the building facing Kellett Way and to ensure that the frontage to Darlinghurst Road considers the historical significance of the building by modifying the existing building entrance door to reflect its original modernist architecture while maintaining the discreet nature of the building's operations.

Response: No physical works are proposed to the external facade of the building.

- (b) **Issue:** The operator and specific use applied for at the premises has no track record of operation and should be limited in its late-night trading to the Base Hours. The extension of late-night trading to the Extended Hours should only be considered in the future when the operator and venue has a proven track record of managing the facility in a way that demonstrates their ability to control impacts and manage the facility and its customers

Response: The extended trading hours between 12.00midnight and 5.00am is supported subject to a one-year trial in accordance with Section 3.15.4 of the DCP, allowing Council to monitor the operation of the premises.

- (c) **Issue:** This venue has dual street frontages and should have ingress and egress (except for emergencies and material loading) off Darlinghurst Rd to ensure the impacts of customers attending the site does not bleed into the highly residential and earlier trading rules of Kellett Way and Kellett St. The Kellett Street doors should be alarmed and not for customer use.

Response: The POM requires that the premises has only one public entry/exit point from Darlinghurst Road to minimise any disturbance to the residential area to the east. The access point on Kellett Way will only be used as an emergency exit. In addition, security personnel will patrol the perimeter of the venue including Darlinghurst Road and Kellett Way, which will occur at 30-minute intervals and will commence at the start of business trading hours to close of business.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

70. The development is subject to a Section 7.11 development contribution under the provisions of the City of Sydney Development Contributions Plan 2015.
71. Credits have been applied for the most recent approved use of the site as a food and drink premises (including pubs, nightclubs and bars). While an adult entertainment premises use is not specified in the land use tables in the City of Sydney Development Contributions Plan 2015, the plan requires the consent authority to use the occupancy rate for the most similar use from the tables, in this case which is also a pub. A contribution has been calculated based on the additional GFA generated in the basement.
72. A condition relating to this development contribution has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contribution to be paid prior to the issue of a construction certificate

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

73. The site is located within the residual land affordable housing contribution area and the contribution requirement applies to new or more intensely used floor area. As the proposed development includes alterations to an existing building that will result in the creation of more than 60 square metres of gross floor area that is intended to be used for a purpose other than residential accommodation, a 1% contribution is required at a rate of \$11,176.22 per square metre of total non-residential floor area 119.98sqm totalling \$13,409.23. A condition of consent is recommended requiring payment prior to the issue of a construction certificate

Relevant Legislation

74. Environmental Planning and Assessment Act 1979.

Conclusion

75. Approval is sought for the use of the whole building as a restricted premises (adult entertainment premises) with internal alterations and a patron capacity of 380 people including staff, security, and patrons at any given time at the premises. The proposed trading hours are between 7.00am to 5.00am Monday to Sunday and public holidays.
76. The proposed use as an adult entertainment premises is considered to be in keeping with the unique character of the area.
77. The proposal is generally consistent with the objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. Instances where the proposal varies from the DCP controls have been assessed as acceptable.

78. The amended proposal generally complies with the City of Sydney Sex Industry and Adult Entertainment Premises Development Guidelines (October 2013).
79. The development, subject to conditions, will not unreasonably compromise the amenity of nearby properties.

ANDREW THOMAS

Executive Manager Planning and Development

Joe Wang, Specialist Planner

Attachment A

Recommended Conditions of Consent
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GENERAL CONDITIONS

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2023/987 dated 30 October 2023 and the following drawings:

Drawing Number	Drawing Name	Date
POM-3.00 Rev C	Basement Level	18/04/2024
POM-3.01 Rev C	Ground Floor	18/04/2024
POM-3.02 Rev C	Mezzanine	18/04/2024
POM-4.01 Rev C	Elevations	18/04/2024

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.

Reason

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

(2) SURRENDER OF EXISTING DEVELOPMENT CONSENT

Development consents D/2005/2222, D/2013/1011, D/2014/199 and D/2014/803 associated with the existing pub, must be surrendered (in accordance with Clause 4.63 of the Environmental Planning & Assessment Act 1979 and Clause 68 of the Environmental Planning & Assessment Regulation 2021), with evidence provided to Council's Area Planning Manager prior to issue of the occupation certificate.

Reason

To ensure only one development consent applies and makes clear the operational requirements.

(3) 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.

<u>Contribution Category</u>	<u>Amount</u>
Open Space	\$4,109.39
Community Facilities	\$3,872.04
Traffic and Transport	\$644.21
Stormwater Drainage	\$0.00
Total	\$8,625.64

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

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

Where:

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

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

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

CPI_{consent} = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 137.7 for the March 2024.

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

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

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

Reason

To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.

(4) AFFORDABLE HOUSING CONTRIBUTION – RESIDUAL LAND OR CENTRAL SYDNEY – 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 \$13,409.23 (indexed at 4 September 2024). This is calculated by establishing the sum of the equivalent monetary contribution \$11,176.22 multiplied by 1% of the total floor area for non-residential development (119.98sqm).
- (c) If the contribution is paid after the indexation period in which the consent is granted, being 1 March 2024 to 28 February 2025, the above contribution will be adjusted according to the Sydney LGA median strata dwelling price ('MDP') using the following formula.
- (d) Contribution payable at Time of Payment = $C \times MDP2 / MDP1$, where:
 - (i) C is the original total contribution amount payable to the City of Sydney as shown above;
 - (ii) MDP2 is the Median Strata Dwelling Price in Sydney LGA taken from the most recent NSW Government Rent and Sales Report at the time of indexation of the equivalent monetary contribution rate; and
 - (iii) MDP1 is the Median Strata Dwelling Price in Sydney LGA taken from the NSW Government Rent and Sales Report used to establish the current equivalent monetary contribution rate, being 1 March 2024 to 28 February 2025.

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.

(5) DESIGN MODIFICATIONS

The design of the building must be modified as follows:

- (a) Internal fixed screens such as blinds or shutter curtains are to be installed to the glazing fronting Darlinghurst Road to prevent looking into the premises/into the entertainment area from public domain.
- (b) The proposed waste area is to be enlarged to accommodate two days storage of waste and recycling based on the proposed development floor space and waste generation rates for pub/clubs as per Council's Guidelines for Waste Management in New Developments 2018.

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

Reason

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

(6) APPROVED USE

- (a) The premises may only be used for the purposes of a Restricted Premises as defined in Sydney Local Environmental Plan 2012, and specifically as an adult entertainment premises and striptease club as defined in Sydney Development Control Plan 2012.
- (b) The approved use above may only be carried out internally and is not permitted to be visible from outside the premises

Reason

To be consistent with the approved use.

(7) NO APPROVAL FOR SEX SERVICES

Sex services as defined in the Sydney Local Environmental Plan and Sydney Development Control Plan 2012 Section 4.4.6 are not to be provided on the premises.

Reason

To restrict the use of the premises.

(8) ADULT ENTERTAINMENT STAFF FACILITIES

Dressing room facilities, in an area not accessible by clients, must be provided within the premises adjacent to and accessible from performance areas and with adequate preparation facilities including dressing tables and mirrors.

Reason

To ensure appropriate staff facilities are provided on the premises.

(9) HEALTH SERVICES ACCESS

The proprietor must give access to health service providers to provide information and educational activities on disease transmission issues and any other issues.

Reason

To ensure access to health service providers is provided.

(10) ADULT ENTERTAINMENT/STRIP CLUBS CONSTRUCTION

All performance areas of the premises must be constructed of durable, non-slip, impervious materials that are easy to keep clean

Reason

To ensure safety and cleanliness within performance areas.

(11) ADULT ENTERTAINMENT PREMISES DATABASE

Prior to the issue of any Occupation Certificate, Councils Health and Building Unit must be notified that the premises is being used for the purposes of a 'adult entertainment premises' and the business registered on Council's database. The premises will then be subject to Council inspection.

Reason

To ensure the premises is registered on Council's database to allow appropriate inspections.

(12) WASTE AND RECYCLING MANAGEMENT - GENERAL

The proposal must comply with the relevant provisions of the Sydney Development Control Plan 2012 and Council's *Guidelines for Waste Management in New Developments 2018*, which requires facilities to promote the safe and efficient storage, separation, collection and handling of waste to maximise resource recovery.

Reason

To ensure that waste and recycling is appropriately managed throughout all phases of the development.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

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

A qualified practising registered structural engineer must provide structural certification to the Registered Certifier verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of the *Building Code of Australia* prior to a Construction Certificate being issued. The proposed additional loads and/or alterations must not cause a decrease in the existing structural performance of the building including its performance under earthquake actions (AS1170.4).

Reason

To ensure the existing structure can support the new loads.

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

- (a) All relevant performance parameters (including but not limited to requirements, engineering assumptions and recommendations) in the DA Acoustic Report prepared by Acoustic Logic, dated 25/9/2023, ref 20230997.1/1207A/R1/LA, titled '42 Darlinghurst Road, Potts Point - Acoustics Letter of DA Support', Council Ref 2024/414943 must be implemented in the development prior to the commencement of its use.
- (b) Prior to the issue of any relevant Construction Certificate, the final construction drawings and final construction methodology must be assessed and reported to be in accordance with the requirements of the DA Acoustic Report in (a) above, with reference to relevant documentation. This must be done by a Suitably Qualified Acoustic Consultant* (see definition below). This work will be to the satisfaction of the Registered Certifier.
- (c) Prior to the issue of any Occupation Certificate, a Suitably Qualified Acoustic Consultant* is to provide a written Acoustic Verification Report to the satisfaction of the Principal Certifier that the development complies with the requirements set out in the Report and in (a) and (b) above.

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

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

Reason

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

(15) 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 Registered Certifier.

Reason

To ensure all areas associated with the food business comply with relevant standards.

(16) 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.

(17) FOOD PREMISES – ADDITIONAL MECHANICAL VENTILATION REQUIREMENTS

- (a) The cooking appliances require an approved air handling system designed in accordance with *AS1668.1 - The Use of Ventilation and Air-conditioning in Buildings – Fire and Smoke Control in Buildings* and *AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings*, and must incorporate the following:
 - (i) The discharge exhaust air must be directed in a vertical, or near vertical direction above the roof, and
 - (ii) The cooking appliances must not burn any charcoal, wood or other solid fuel.
- (b) Details of the proposed system must be submitted to and approved by Council's Health and Building Unit in writing prior to the issue of a Construction Certificate.

Reason

To ensure the cooking appliances comply with relevant standards and do not cause a nuisance or air pollution affecting neighbouring properties.

(18) 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.

(19) WASTE STORAGE AREA

(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 *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 Registered 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.

(20) 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 coolroom must be graded to the door and a floor trapped waste outlet must be located outside the coolroom as near as possible to the door opening.
- (b) All proposed shelving in the coolroom 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 coolroom 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 coolroom(s) but controllable only from within the coolroom(s) and must be able to achieve a sound pressure level outside the chamber or coolroom(s) of 90 dB(A) when measured 3 metres from a sounding device.

Reason

To ensure coolrooms are constructed appropriately in accordance with relevant standards.

(21) 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 Registered 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.

(22) HOT WATER SERVICE

The capacity of the hot water service must ensure that a constant supply of hot water is provided to the premises at all times for all sinks and basins including hand wash basin/s. The temperature of the hot water provided to the sinks must be in accordance with *AS4674 – Design, Construction and Fit-out of Food Premises* and the *Australia New Zealand Food Standards Code 3.2.2 - Food Safety Practices* and general requirements.

Reason

To ensure the food premises has a constant supply of hot water in accordance with relevant standards.

(23) WASTE AND RECYCLING MANAGEMENT – COMMERCIAL

- (a) The Waste and Recycling Management Plan accompanying this Development Application has not been approved by this consent.
- (b) A Waste and Recycling Management Plan, which meets the requirements as set out in Council's Guidelines for Waste Management in New Developments 2018, is to be approved by the Approval Authority prior to a Construction Certificate being issued.
- (c) All requirements of the approved Waste and Recycling Management Plan must be implemented during construction and operation of the development and include:
 - (i) Dedicated space to be provided within the development for the storage and recycling of bulky waste, problem waste, strip out and food waste;
 - (ii) 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;
 - (iii) Provision and storage within the boundary of the development of waste and recycling receptacles and any bulky waste at all times;
 - (iv) Commercial tenancies must have a commercial waste contract(s) in place prior to commencement of business trading;

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

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

UPON COMPLETION OF THE DEVELOPMENT

- (d) Prior to any Occupation Certificate being issued or the use commencing, whichever is earlier, the Principal Certifier must ensure that waste handling works have been completed in accordance with the Waste and Recycling Management Plan; other relevant development consent conditions; and Council's Guidelines for Waste Management in New Developments 2018.

Reason

To ensure that waste and recycling is appropriately managed.

DURING BUILDING WORK

(24) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Team, prior to works proceeding.

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Reason

To protect the amenity of the surrounding area.

(25) ASBESTOS REMOVAL WORKS

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.

Reason

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

(26) USE OF INTRUSIVE APPLIANCES – NOT APPROVED

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

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

Reason

To ensure the acoustic amenity of surrounding developments is maintained.

(27) COVERING OF LOADS

All vehicles involved in the excavation and/or demolition process and departing the property with demolition materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

Reason

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

(28) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a) 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.

(29) 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.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

(30) 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.

(31) WASTE AND RECYCLING MANAGEMENT - COMMERCIAL

Prior to the issue of an Occupation Certificate, the Principal Certifier is to ensure all waste management, collection, loading and supporting infrastructure is provided in accordance with the stamped plans, approved Operational Waste Management Plan and specifications approved at the Construction Certificate.

Reason

To ensure all on-site infrastructure has been provided to support scheduled collections responsive to the Council endorsed OWMP and requirements of the Guidelines for waste management in new developments 2018.

OCCUPATION AND ONGOING USE

(32) 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.

(33) HOURS OF OPERATION - SENSITIVE USES

The hours of operation are regulated as follows:

- (a) The hours of operation must be restricted to between 7.00am and 12.00 midnight Monday to Sunday.
- (b) Notwithstanding (a) above, the use may operate between 12.00 midnight and 5.00am Monday to Sunday for a trial period of one year from the date of issue of the approved variation of the Liquor License. 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.

(34) SIGNS - RESTRICTED PREMISES

Prior to the issue of an Occupation Certificate, a sign must be erected, displayed or exhibited at the restricted premises where:

- (a) The sign does not exceed 600 millimetres in height or width, and an area of 0.36sq.m, does not contain neon illumination, does not flash, and contains only:
 - (i) the words 'RESTRICTED PREMISES' in capital letters, 50 millimetres in height; and
 - (ii) the name of the operator of the restricted premises or the registered name of the business.
- (b) Not more than one such sign is to be erected, displayed or exhibited.

Reason

To ensure all required information associated with the restricted premises is displayed.

(35) MAXIMUM CAPACITY OF PERSONS

- (a) The maximum number of persons (including staff, patrons and performers) permitted in the premises at any one time is 380 persons.
- (b) The manager/licensee is responsible for ensuring the number of persons in the premises does not exceed that specified above.
- (c) 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.

(36) PLAN OF MANAGEMENT

The use must always be operated / managed in accordance with the Plan of Management, prepared by *Hotel 42/ Asteri Holdings Pty Ltd* and dated 16 July 2024 (Council Record: 2024/448155) that has been approved by Council. In the event of any inconsistency, the conditions of this consent will prevail over the Plan of Management.

Reason

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

(37) 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.

(38) CESSATION OF SERVICE

The premises may be open for business only between the operating hours in Condition 33 above. The operator must cease providing food/alcohol/entertainment at the premises 30 minutes before the required closing time or sooner if stipulated on the Liquor Licence.

Reason

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

(39) QUEUING - LICENSED PREMISES

The manager/licensee must ensure that a clear footway width of one metre 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.

Reason

To safeguard the amenity of the surrounding neighbourhood.

(40) 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.

(41) NOISE - ENTERTAINMENT

- (a) The $L_{Aeq, 15 \text{ minute}}$ noise level from the use must not exceed the background noise level ($L_{A90, 15\text{minute}}$) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) by more than 5dB between 7.00am and 12.00 midnight when assessed at the boundary of any residential accommodation or tourist and visitor accommodation.

- (b) The $L_{Aeq, 15 \text{ minute}}$ noise level from the use must not exceed the background noise level ($L_{A90, 15 \text{ minute}}$) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive) between 12.00 midnight and 7.00am when assessed at the boundary of any residential accommodation or tourist and visitor accommodation.
- (c) Notwithstanding (a) above, the $L_{Aeq, 15 \text{ minute}}$ noise level from the use must not exceed the greater of the following levels between 7am and 12 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 $L_{A90, 15 \text{ minute}}$ (from external sources excluding the use) in any octave band (reference frequency 31.5 Hz to 8 kHz inclusive). Or,
 - (ii) If the $L_{Z90, 15 \text{ minute}}$ 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 (L_p) of the Tf curve in that octave band shall become that octave's $L_{Zeq, 15 \text{ minute}}$ noise criteria level.
- (d) Notwithstanding (b) above, the $L_{A1, 15 \text{ minute}}$ noise level from the use must not exceed the greater of the following sound pressure levels inside any habitable room between 12 midnight and 7am inside any habitable room of an affected residential accommodation or tourist and visitor accommodation:
 - (i) The existing internal $L_{A90, 15 \text{ minute}}$ (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 $L_{Z90, 15 \text{ minute}}$ 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 (L_p) of the Tf curve in that octave band shall become that octave's $L_{Z1, 15 \text{ minute}}$ 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 NPfl unless otherwise agreed by the City's Area Planning Manager.

Reason

To protect the acoustic amenity of surrounding properties.

(42) NOISE – COMMERCIAL PLANT / INDUSTRIAL DEVELOPMENT

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

- (i) Background noise monitoring must be carried out in accordance with the long-term methodology in [Fact Sheet B](#) of the NPfI unless otherwise agreed by the City's Area Planning Manager.
 - (ii) Commercial plant is limited to heating, ventilation, air conditioning, refrigeration and energy generation equipment.
- (b) An $L_{Aeq,15 \text{ minute}}$ (noise level) emitted from the development must not exceed the $L_{A90, 15 \text{ minute}}$ (background noise level) by more than 3dB when assessed inside any habitable room of any affected residence or noise sensitive commercial premises at any time. Further:
- (i) The noise level and the background noise level must both be measured with all external doors and windows of the affected residence closed.
 - (ii) Background noise measurements must not include noise from the development but may include noise from necessary ventilation at the affected 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.

(43) NO SPRUIKING NOISE

No persons (such as those commonly known as spruikers) or recordings or other devices which have the effect of spruiking are to be located on Council owned property. Furthermore, the sound level of any spruiking generated within privately owned land must not be audible on any adjacent property with a shared boundary.

Reason

To safeguard the amenity of the surrounding neighbourhood.

(44) 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.

(45) 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 certifying Authority 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.

(46) 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 a 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.

(47) SURVEILLANCE CAMERAS – HIGH RISK

- (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.

(48) RESTRICTED PREMISES CLEANING

- (a) All booths and/or cubicles must be cleaned on a daily basis and should also be assessed for cleanliness after each use with spot cleaning occurring as necessary and as frequently as possible.

- (b) The viewing screen installation(s) is/are to be fitted so as body fluid does not accumulate and easy cleaning can occur.

Reason

To ensure adequate cleaning is undertaken within the premises.

(49) SEX INDUSTRY/ADULT ENTERTAINMENT/STRIP CLUBS CLEANING

All performance areas must be cleaned on a daily basis and should also be assessed for cleaning after every performance with spot cleaning occurring as necessary and as frequently as possible.

Reason

To ensure all performance areas are cleaned appropriately.

(50) 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.

Reason

To safeguard the amenity of the surrounding neighbourhood.

(51) REMOVAL OF GLASS

Patrons must be prevented from removing glasses, opened cans, bottles or alcohol from the premises (except from any approved bottle shop area) or approved outdoor dining area included in the boundaries of the licensed premises.

Reason

To reduce waste generation within the public domain and to safeguard the amenity of the surrounding neighbourhood.

(52) 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.

(53) WASTE AND 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 2022.
- (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.

Reason

To ensure that waste and recycling is appropriately managed.

(54) ONGOING WASTE MANAGEMENT – COMMERCIAL

- (a) The ongoing use of development/tenancy must be in accordance with the approved Operational Waste Management Plan, Council's *Guidelines for Waste Management in New Developments*, the City of Sydney's DCP, and the developments Conditions of Consent.
- (b) All general waste and recycling materials emanating from the premises must be stored in the designated waste storage area(s), must not be stored outside the premises (including the public domain) at any time.
- (c) All waste and recycling stream(s) storage area(s) are to only be used for the purposes of storing waste and recycling from the premises in accordance with the original consent and approved Operational Waste Management Plan and not be converted to a different use.
- (d) Scheduled collections and waste management arrangements of the development/tenancy is the responsibility of the business owner or property manager and are to be conducted in accordance with the stamped plans, approved Operational Waste Management Plan and this consent. These arrangements include:
 - (i) arranging an adequate number of bins and the servicing regime matched to the needs of the premises.
 - (ii) actively managing waste streams and supporting infrastructure to ensure bins are not overflowing, damaged or leaking and lids are fully closed at all times.
 - (iii) routine cleaning and maintenance of waste storage area(s) to inhibit the permeation of odour and prevent litter and pests.
 - (iv) the installation and maintenance of all education signage for the respective waste stream(s) as requested by the City of Sydney.
- (e) Contracts (or agreements) with cleaners, building managers and tenants must clearly outline the waste management and collection arrangements, identifying clear roles and responsibilities outlined within the approved Operational Waste Management Plan.

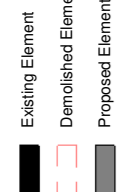
Reason

To promote good waste management arrangements and minimise the impacts on amenity and safety caused by the presentation and collection of commercial waste.

Attachment B

Selected Drawings

LEGEND:



CLIENT:
ASTERI HOLDINGS PL
M. MANTHOS PAPADOPOULOS

ARCHITECT:
MD+A ARCHITECTS

CONSULTANTS:

- TOWN PLANNER
- LOCAL APPROVALS
- PROJECT MANAGEMENT
- LOCAL APPROVALS
- BCA CONSULTANT
- BCA PERFORMANCE
- ACOUSTIC ENGINEER
- ACOUSTIC LOGIC
- MECHANICAL ENGINEER
- RIJ ENGINEERING

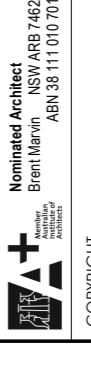
GENERAL NOTES

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Rev.	Date	Description
C	18.04.2024	DA AMENDMENTS



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Tel: +61 1300 424 329



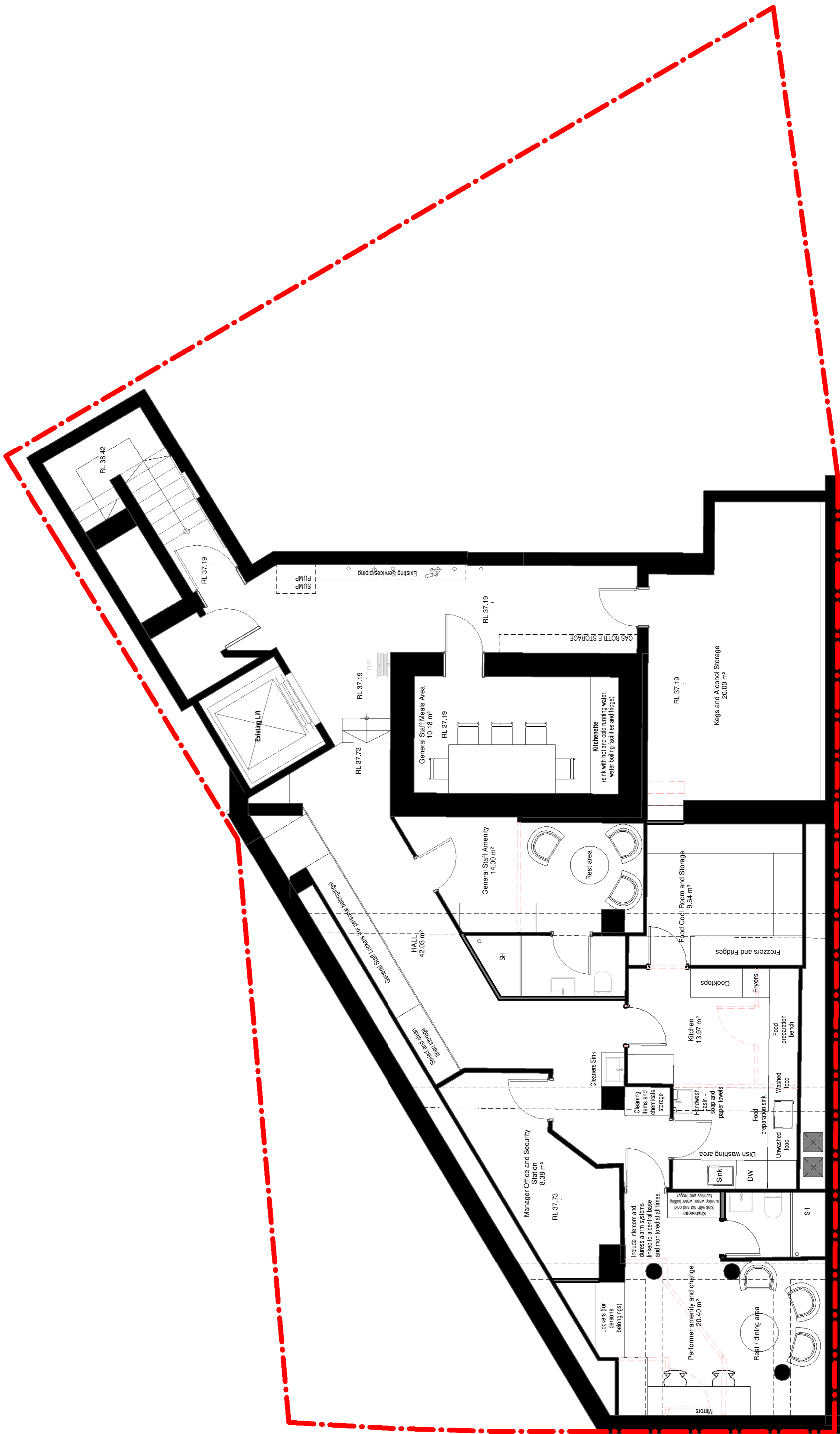
Registered Architect
Number: 24262
Mantimos Papadopoulos
Email: mantimos@mdarchitects.com.au
www.mdarchitects.com.au
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DRAWINGS FOR PLAN OF MANAGEMENT

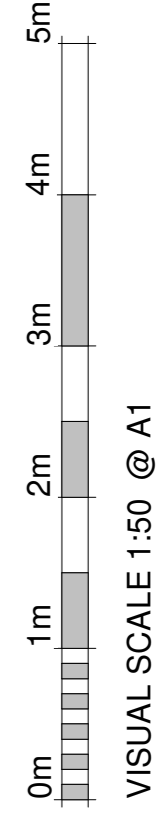
PROJECT
PROPOSED CHANGE OF USE
42 Darlinghurst Road, Potts Point, NSW,
2011

SHEET TITLE
BASEMENT LEVEL

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DWG #	
REVISION	POM-3.00 C

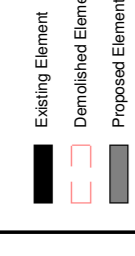


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VISUAL SCALE 1:50 @ A1

LEGEND:



CLIENT: ASTERI HOLDINGS PL
M MANTHOS PAPADOPOULOS

ARCHITECT: MD+A ARCHITECTS

CONSULTANTS:
TOWN PLANNER
LOCAL APPROVALS
PROJECT MANAGEMENT
LOCAL APPROVALS
BCA CONSULTANT
BCA PERFORMANCE
ACOUSTIC ENGINEER
ACOUSTIC LOGIC
MECHANICAL ENGINEER
RMJ ENGINEERING

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Head Office:
31 Macquarie Street,
Marrickville, NSW 2204
Tel: +61 1300 424 329

Registered Architect
New South Wales No. 111 001 951
Email: caroline@mdaarchitects.com.au
www.mdaarchitects.com.au

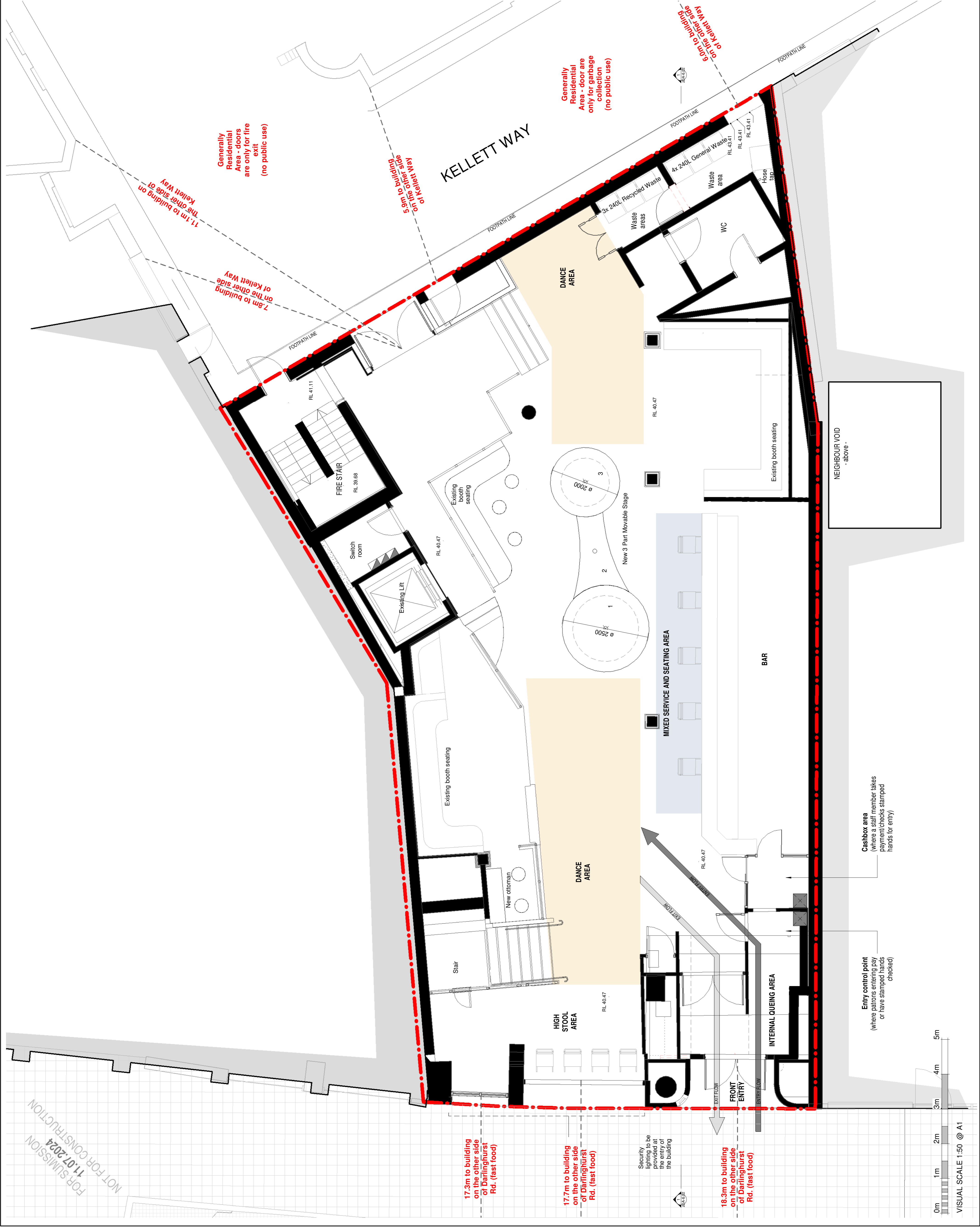
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DRAWINGS FOR PLAN OF MANAGEMENT

PROJECT: PROPOSED CHANGE OF USE
42 Darlinghurst Road, Potts Point, NSW,
2011

SHEET TITLE: **GROUND FLOOR**

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DWG #	
REVISION	
POM-3.01	C

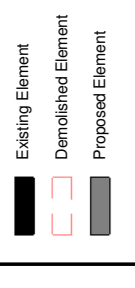


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LEGEND:



CLIENT: ASTERI HOLDINGS PL
M. MANTHOS PAPADOPOULOS
ARCHITECT: MD+A ARCHITECTS
CONSULTANTS:
TOWN PLANNER
LOCAL APPROVALS
PROJECT MANAGEMENT
LOCAL APPROVALS
BCA CONSULTANT
BCA PERFORMANCE
ACOUSTIC ENGINEER
ACOUSTIC LOGIC
MECHANICAL ENGINEER
RIMJ ENGINEERING

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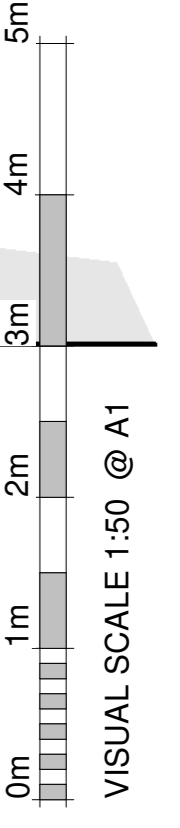
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Tel: +61 1300 424 329
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DRAWINGS FOR PLAN OF MANAGEMENT

PROJECT:
PROPOSED CHANGE OF USE
42 Darlinghurst Road, Potts Point, NSW,
2011

SHEET TITLE
MEZZANINE

SCALE	As indicated @ A1 Half the size @ A3
PROJECT #	0000
DWG #	
REVISION	
POM-3.02	C



LEGEND:

CLIENT: ASTERI HOLDINGS PL
M. MANTHOS PAPADOPOULOS

ARCHITECT: MD+A ARCHITECTS

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TOWN PLANNER
LOCAL APPROVALS
PROJECT MANAGEMENT
LOCAL APPROVALS
BCA CONSULTANT
BCA PERFORMANCE
ACOUSTIC ENGINEER
ACOUSTIC LOGIC
MECHANICAL ENGINEER
RIVJ ENGINEERING

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Rev.	Date	Description
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Head Office:
31 Macquarie Street,
Manlyville, NSW 2204
Tel: +61 1300 424 329

Registered Architect
New South Wales
No. 181100191
Email: caroline@mdarchitects.com.au
www.mdarchitects.com.au
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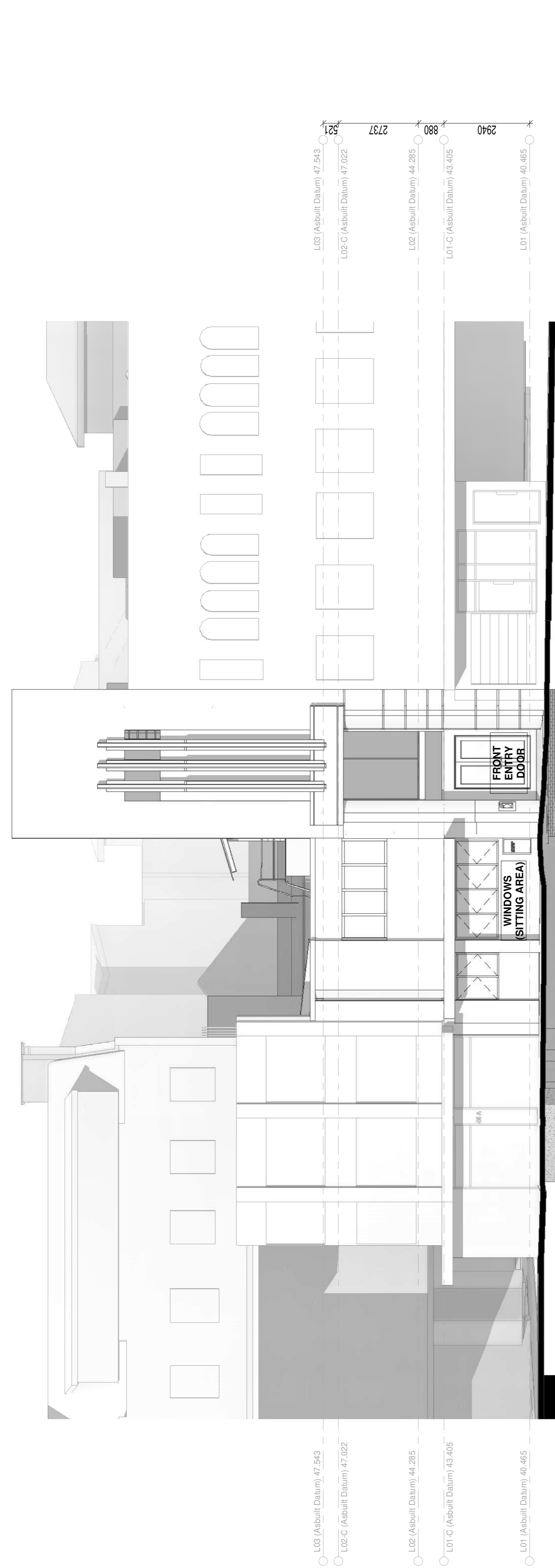
DRAWINGS FOR PLAN OF MANAGEMENT

PROJECT
PROPOSED CHANGE OF USE
42 Darlinghurst Road, Potts Point, NSW,
2011

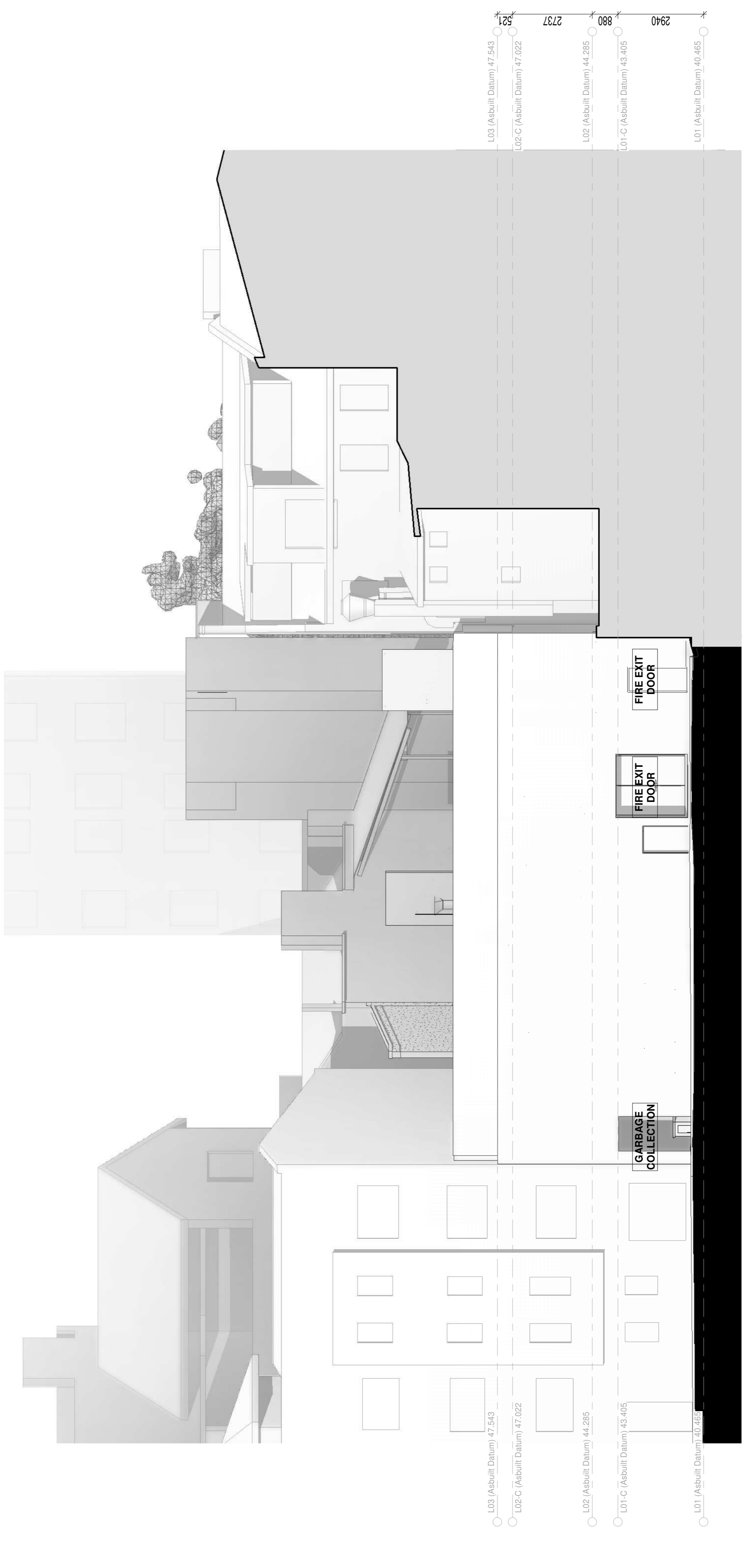
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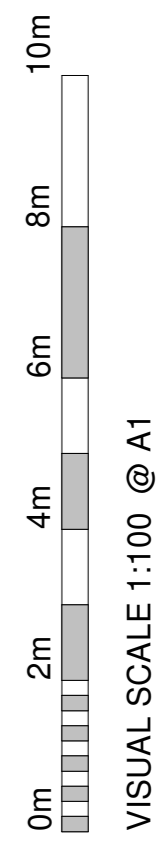
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1 Elevation
WEST ELEVATION (Darlinghurst Rd) 1:100



2 Elevation
EAST ELEVATION (Kellert Way) 1:100



VISUAL SCALE 1:100 @ A1

Attachment C

<h2>Plan of Management</h2>

Operational Plan of Management

Operated by: Mr. Manthos Papadopoulos C/o Hotel 42/ Asteri Holdings Pty Ltd.

Site address: 42 Darlinghurst Road, Potts Point.

Use of the premises as a restricted premises for the purposes of adult entertainment.

Dated: 16 July 2024

Reviewing this plan of management

This Plan must be regularly reviewed to ensure it remains up to date, consistent with legislation and reflective of the business being operated. Such reviews are to be conducted at least once every two years.

Version	Date	Reference
1	16 July 2024	In accordance with DA: D/2023/987

General Information

This Plan of management has been prepared in accordance with Section 3.15.5 (*Plans of management requirements*) and Section 4.4.6.6 (*Management of operations*) of the Sydney Development Control Plans (SDCP) 2012 respectively.

This operational plan of management remains strictly enforceable by The City of Sydney Council and NSW police. The operation of the premises will remain in accordance with the particulars of the plan of management and will adhere to full compliance with NSW police requirements, as well as the conditional consent imposed by the City of Sydney Council.

This Plan of Management provides guidelines and management practices for the day-to-day operation of the premises.

The Plan aims to ensure that the premises:

- a) Operates in a manner consistent with good management;
- b) Operates with regard to the surrounding commercial and mixed use precinct;
- c) Takes a proactive role in being a responsible neighbour/land owner with the Potts Point commercial precinct;
- d) Operates in a manner so as not to disturb the immediate surrounding precinct.

In achieving compliance with the matters of this plan of management, the operators will preserve the neighbourhood amenity via the following:

Neighbourhood Amenity

Management shall consistently prioritize the amenity of surrounding neighbours and implement all reasonable measures to ensure there is no adverse impact on the surrounding area. This includes, but is not limited to:

- Liaising with patrons upon entry and exit from designated access points to minimize noise levels and complaints.
- Security personnel will patrol the perimeter of the venue including Darlinghurst Road and Kellett way. Refer to figure 1 of this document.
- Providing a 24/7 contact phone number and email address to any neighbours upon request.
- Keeping a detailed record of and promptly addressing any complaints related to noise or other matters in a sympathetic manner.
- An incident log book which records the date, time and the nature of all complaints, the name and address of the complainant together with details of all communications between management and complainant, the actions proposed to address the complaint and the date and time of action as undertaken will be maintained on the premises.
- Management and security staff will ensure that the behavior of staff and patrons, upon

Operational Plan of Management – 42 Darlinghurst Road, Potts Point

entering, leaving and around the premises, do not negatively impact the neighborhood's amenity. To minimize the impact on the surrounding area, signs will be erected at the entrance and exit areas of the establishment, informing patrons to exit quietly and orderly.

- The premises shall be operated in a manner that does not interfere with or materially affect the neighborhood's amenity due to noise, vibration, smell, fumes, vapor, steam, soot, ash, dust, wastewater, waste products, grit, oil, or any other causes.

If, in circumstances where experience shows that it is reasonable or desirable to modify any provision of this plan for enhanced management of the premises, that modification shall be served to Kings Cross Police Station and Liquor and Gaming within fourteen (14) days.

1. Premises Owner, Business Proprietors (managers) and Personnel Details

1.1 Premises Owner/Business Proprietors (manager/s)

Owner: Mr. Manthos Papadopoulos C/o Asteri Holdings Pty Ltd

Operator: Hotel 42

Site Address: 42 Darlinghurst Road, Potts Point

The subject site is 42 Darlinghurst Road, Potts Point is used as a licensed restricted premises for the purposes of adult entertainment. The liquor license will be held by a corporate entity (i.e. a company) or by an individual in compliance with sections 65 to 72 of the *Liquor Act 2007*.

The directors of the proprietor company (hereinafter referred to as “the managers” have overall responsibility for ensuring that the premises achieves the planning and design objectives of the City of Sydney planning controls and that the premises is operated in accordance with conditions of consent and approved plan of management and strategies included therein.

Furthermore, that the premises and business conducted therein is operated in accordance with all relevant government legislation and best practice guidelines including:

- Health and Safety Guidelines for Brothels in NSW: WorkCover NSW and NSW Health 2001
- Equal Employment Opportunities
- Crime Prevention through Environmental Design
- All other relevant legislation

The managers are also responsible for the day to day operations of the business. The roles and responsibilities of the managers include:

- Implementation and oversight of all health, safety, security and conduct policies and procedures
- Implementation of EEO requirements, NSW Health and WorkCover NSW Health and Safety Guidelines for Brothels and all other requirements and regulations of the NSW Health Department and the WorkCover Authority NSW including:
 - Provision and maintenance of equipment and systems of work that are safe and without risk to health.
 - In consultation with all personnel for the purpose of risk assessment, the

- identification of any hazard (including work practices or procedures) that has the potential to harm the health or safety of personnel, clients and visitors
- Use of appropriate control measures to eliminate or reduce any identified risk
- Monitor and review the control measures to ensure continual safety
- Oversight of all cleaning and infection control practices and procedures
- Oversight of all waste management practices and procedures
- Induction and supervision of all personnel
- Oversight of education and training of all personnel in all policies, procedures and practices, legislative requirements and best practice standards and guidelines
- Duty rosters for all personnel including contract cleaners. Rosters will ensure adequate time is taken between shifts and that which allows for self-care, rest and rejuvenation. The number of shifts worked in any given week being determined by workers in consultation with the manager.
- Arrange for and attend monthly team meetings which provide for workplace consultation to enable all personnel to contribute to the decision making process which may effect their health, safety and welfare in the work place
- Resolving any issues of conflict between personnel and between personnel and clients
- Monitor and review safety and security precautions and cleaning and infection control practices to ensure the continued safety of the workplace
- Ongoing evaluation of the premises for maintenance, repairs, replacement, supplies and waste management / collection.
- Maintaining the premises accident/injury and incident registers. In the case of serious accident or injury or other emergency situation, the WorkCover Authority of NSW will be advised
- Oversee the evacuation of the premises in the case of fire or other emergency
- Ensuring all fire safety equipment is in place and regularly serviced and provide an annual fire safety statement to the consent authority.
- Contacting police and other emergency services if and when required. The incident register will be provided to police in such an event occurring requiring the attendance of police or other emergency services.
- Maintaining appropriate public liability, fire and general and workers compensation insurance.
- Attending health, safety, security and related meetings and seminars convened by Sex workers Outreach Project (SWOP) or other relevant authority
- Providing information and direction on professional development opportunities and training for all personnel

1.2 Manager

- The business engages the services of a Manager on site at all times per 8 hour shift. The Manager report directly to the Director and, in the absence of the managers are responsible for the day to day operations of the business
- The Manager is required to comply with all office of liquor and gaming requirements
- The Manager is required to hold High risk accreditation in accordance office of liquor and gaming

The role and responsibilities of the Manager include:

- Working in conjunction with all staff including security staff to ensure that all policies and procedures including health, hygiene, safety and security and conduct standards and requirements are met and maintained including EEO requirements, NSW Health and WorkCover NSW Health and Safety.
- Guidelines for requirements and regulations of the NSW Health Department and the WorkCover Authority.
- Demonstrated knowledge of infection control and cleaning procedures and practices including:
 - Maintenance and use of cleaning equipment and products
 - Cleaning and maintenance standards
 - Maintenance of cleaning schedules
 - Maintenance of incident and accident/injury registers and reporting requirements as per WorkCover NSW requirements
- Ensure all safety and security policies and procedures are met prior to allowing access to the premises of any potential client or other visitor. This includes verifying identification of all people presenting at the premises purporting to be from a utilities service or government department including energy services (gas and electricity), telephone, fire protection, police or other government representative)
- Refuse entry to any person that appears to be intoxicated or under the age of 18 years.
- Contact police, security and other emergency services if required. In the absence of the managers, oversee emergency procedures for the evacuation of the premises in case of fire or other emergency.
- Ensuring the monitoring of CCTV and the service rooms, entrance and emergency exit are carried out by suitably trained staff.
- Oversee all daily and other regular cleaning procedures and practices and where and when necessary, attend to daily maintenance and spot cleaning requirements to ensure the entire premise remains in a safe, clean, hygienic and presentable manner.
- Maintenance and oversight of cleaning schedules.
- Maintenance and oversight of maintenance schedule and supplies checklist.
- Maintenance and oversight of garbage disposal systems.
- Assist with induction and orientation of all new personnel and share knowledge and experience
- Answer telephones, accurately record messages and maintain office records.
- Electronic funds transfer manned terminal system, managed by staff and manager
- Allocation of private rooms
- Recording time of commencement of service, room allocation and expected time of completion.
- Initially address any disagreements or problems between workers and clients
- Honor the duty roster and shift obligations and if unable to attend wherever possible, telephone the managers in advance to arrange for a suitable replacement.
- Attend periodic team meetings.
- Pursue professional development opportunities to enhance knowledge and skills and keep abreast of any changes and requirements in relation to safe work practices, work place practices, safety and security precautions and cleaning and infection control practices relevant to the operations of the premises.

Where knowledge or experience is limited or non-existent, training will be provided by the managers or their appointed designee together with direction for professional development and other training opportunities.

1.3 Contract Cleaner

- The business will engage the services of a contract cleaner on a daily basis. The managers, staff and workers attend to all other daily cleaning and maintenance and spot cleaning requirements.

The role and responsibilities of the contract cleaner includes:

- Demonstrated knowledge of cleaning and infection control procedures and practices including:
 - Maintenance and use of cleaning equipment and products
 - Maintenance of cleaning schedules (full daily cleaning and other daily cleaning and maintenance activities)
- Demonstrated knowledge of transmission and prevention of infective pathogens including:
 - Personal protective hygiene practices (wearing of gloves and hand washing)
 - Safe disposal of sharps and sharps safes
 - First aid in case of sharps injury and/or blood or body fluids/substance exposure
 - Blood borne or body fluid/substance viruses and bacterial infections including hepatitis A, B and C, shigella and giardia
 - HIV Post Exposure Prophylactic (PEP) treatment
 - Immunization against hepatitis A & B and tetanus
- Maintain the cleanliness of the premises and all fixtures, fittings and equipment within a structured program of routine and non-routine cleaning
- Report any damage to premises including furniture, fittings, fixtures and equipment to the manager.
- Observe safe manual handling and handling of potentially hazardous waste and cleaning chemicals at all times.
- Maintenance, storage and replacement of cleaning products and equipment.
- Dusting, vacuuming and mopping all floors.
- Cleaning all surfaces, furniture, fittings, fixtures and equipment in all rooms including sanitary facilities.
- Use of cleaning products as per manufactures instructions.
- Removal of any waste from rooms and oversight of waste disposal systems ensuring appropriate storage and collection of waste
- Placement of warning signs where areas may be damp or slippery following cleaning
- Bactericidal liquid soap is to be used in the pump action soap dispenses at hand basins.
- Completion of cleaning schedules and oversight checklist for all other daily cleaning and maintenance activities.
- Pursue professional development opportunities to enhance knowledge and skills and keep abreast of all changes and requirements in relation to cleaning and infection control practices and safety precautions relevant to the commercial nature of the

business.

- Honor service contract agreement and if unable to attend, telephone the manager in advance to advise of replacement personnel

2. Description of Premises

2.1 The Site

The site has a legal description of Lot 1 DP 176623, Lot 1 DP 183086, known as 42 Darlinghurst Road, Potts Point. It is irregular in shape with area of approximately 335.1sqm. It has a primary street frontage of approximately 11.37m to Darlinghurst Road and a secondary street frontage of 18.39m to Kellett Way. The site contains an existing two storey building with basement level. The site consists of an existing 18m high feature tower at the front of the site. A clearly visible street number denoting the entrance is located on the building façade.



Figure 1 – Site and surrounds



Figure 2 – Aerial image of subject site and surrounds.

2.2 Services and Facilities

The business provides the services of a commercial private room catering to an adult clientèle. The main service offering is an adult entertainment facility as defined by the Sydney Development Control Plan 2012 below. The proposal strictly does not involve any sex services, on the premises:

Adult entertainment premises means a premises that:

- (a) provides entertainment involving nude or semi-nude performers; or*
- (b) sells or shows restricted material but at which sex services or sexual activity between people does not occur.*

In addition, the premises will offer private rooms for an exclusive private experience. These rooms will have strictly no audience participation and no sexual services. The rooms will have CCTV surveillance that will be constantly monitored by trained security personnel known as *controllers*. Each room will be uniquely themed to tribute kings cross in its bygone era. The services will include private experiences involving artistic performances of a visual and auditory nature.

Basement level:

- o Managers office and security station
- o Performers amenity and change room areas
- o Kitchen and associated food preparation areas
- o General staff amenity and rest area
- o General staff and meals area

Operational Plan of Management – 42 Darlinghurst Road, Potts Point

- o Cool room/ storage room

Ground floor (No change proposed):

- o Entrance with associated internal queuing area
- o Ground floor Bar area
- o General lounge area
- o Storeroom
- o Water closet
- o Waste storage area accessed via Kellet Way
- o General dance area
- o Portable/ non fixed moveable podium stage
- o Lift

First floor (No change proposed):

- o First floor bar area
- o Female and male toilets respectively
- o Existing general booth seating area
- o 7 x private rooms
- o General dance area
- o Existing first floor smoking room
- o Portable/ non fixed moveable podium stage
- o Lift

2.2 Hours of Operation

The premises operates per the following hours, in accordance with the existing approved liquor license:

- Monday: 7am to 5am (following day)
- Tuesday: 7am to 5am (following day)
- Wednesday: 7am to 5am (following day)
- Thursday: 7am to 5am (following day)
- Friday: 7am to 5am (following day)
- Saturday: 7am to 5am (following day)
- Sunday: 7am to 5am (following day)
- Public holidays: 7am to 5am (following day)

2.2.1 Late night trading

In accordance Schedule 3, of the Sydney DCP 2012 – *Late Night Trading, Specifically Chapter 3.2 - Plan of management requirements* the following requirements are made:

- The ratio of security staff to patrons is at a ratio of 2:100. Additional security staff will include the employment of *controllers*, who will monitor the private room areas in accordance with Section 3.0.1 of this plan of management.
- The physical extent of the area patrolled outside of the premises will include the main entry fronting Darlinghurst Road, as well as the rear entry where required. All areas of the building will be monitored via CCTV and reviewed within the management office within the basement.
- The operation of the premises must be carried out in accordance with the safety requirements of Schedule 3, Section 3.2 of the Sydney Development Control Plan 2012 pertaining to *Late Night Trading*, and *Plan of management requirements*, and as outlined within this operational plan of management.

2.3 Number of Workers

There shall be a maximum number of Twelve (12) staff members including 2 qualified RSA staff members, seven (7) security staff members, and Ten (10) performers engaged in the performance of their duties at any one time.

The premises will be serviced by trained and qualified security staff at the entry of the venue to ensure appropriate crowd control measures and patron safety is preserved. The security staff will be responsible for screening patrons prior to entry and will be required to carry portable telecommunication devices to ensure contact with police is possible where required.

Performers: 10

Rest/ Breaks

- 15 mins minutes – podium show.
- Performers are entitled to take breaks as required or needed.
- 1-hour maximum private shows booking in private rooms.
- Performers are entitled to a 1-hour break after each performance.

General staff Capacity: 12

- General staff includes onsite management, bar attendant staff: 5
- Security staff: 7

Maximum Patron Capacity: 380

- A maximum of 380 seated or standing patrons (inclusive of staff, workers, and performers) are permitted on site at any given time.

2.6 Access and Mobility for People with a Disability

The managers seek to cater to all members of the community and to meet wherever possible and within the constraints of the existing building, the objectives of the *Disability Discrimination Act, 1992*. With that noted, the premises is equipped with a lift and internal ramps to ensure access.

2.7 Access to the Premises and Active Areas.

The subject site must ensure that all active areas are maintained enclosed within the premises. No out seating is offered on the premises.

2.7.1 Access and Entry Queue Management

The premises will manage queued patrons along the public domain shared footpath in an orderly manner. The management of queues will be controlled and monitored by security staff. The management of queues will be in accordance with online ticket sales and bookings, which will involve staggered entry times to ensure an even flow of patrons to the site and minimize excessive numbers of patrons in the internal queuing area, and to ensure minimal queuing on the public domain. The queue will be marked with highly visible bollards to ensure that adjoining adjacent commercial land uses are not impacted by the queue via blockage of shop entries. Patrons will then be directed through to the internal queuing area prior to being granted entry into the premises. Where patrons in the (internal, or external) queue are noncompliant with the instruction of the security staff, the patron will be refused entry and instructed to vacate the premises and surrounding area.

3.0 Safety, Security and Conduct

The premises will have a comprehensive security plan to ensure the safety and well-being of all patrons and staff. The premises will employ 7 security staff members and 2 RSA (Responsible Service of Alcohol) officers, appropriate for a venue with a capacity of 380.

The allocation of security resources will be as follows:

Monday to Sunday: Minimum of 2x licensed security guards per 100 patrons.

- 2x RSA Marshalls
- Extra security will be used outside these guidelines at the discretion of management.
- Security guards shall remain at the premises for at least 60 minutes after closing the venue.

All security personnel prior to commencing work at the premises will be instructed of the layout of the premises, the method operation and any special requirements by the manager on duty.

All security personnel will record all relevant details of any incidents involving the physical contact, restraint or ejection of patrons occurring within or immediately outside the premises into the appropriate incident register. The incident register is to be made available on request to the police.

Security will remove any patrons who are intoxicated, showing signs of intoxication or exhibiting unacceptable/antisocial behavior and when ejected or refused are asked to leave the vicinity (50m).

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Patrols of the bathrooms and private rooms will be conducted on a regular basis, which will all occur at 30-minute intervals and will commence at the start of business trading hours to close of business. These patrols will be recorded in the security incident register.

Security personnel will collect any rubbish or litter immediately outside the premises.

Anyone approaching a venue in the must not be allowed entry if they are seen drinking or with open alcohol containers in an alcohol-free zone or an alcohol prohibited area.

Safety and security policies and procedures and practices are only as good as the instructions and training provided and the systems in place. A cohesive team approach is essential and this necessarily requires the development of trust and respect and support between management and personnel. To this end, all the training and refresher training programs are to ensure that each individual on site is made aware of and understands the practical application of all relevant safety and security policies and procedures and that it is the responsibility of each individual to maintain all safety and security precautions to prevent any one person or the whole business being put in jeopardy.

Together with an induction process and individual supervision, the managers will conduct periodic team meetings. These meetings are to be used to develop a team approach to maintaining a safe and secure environment for all. Team building strategies are to be based on a peer education and support model and one that reinforces the need for a collective approach in that individuals are not only responsible for themselves but they understand how their actions may affect others. This requires the development of trust and respect and while respecting the individual's privacy, understanding the importance of sharing work related skills and related information and identifying hazardous work practices and procedures which equates generally, for the need to support each other in order that no one is put at risk.

Additionally, all personnel are to be instructed in how to deal with difficult clients, refusing service to a client with an obvious sign of aggression or anti-social conduct and how to summons assistance if and when required. Once again, prevention of difficult situations is the first course of action. To this end, training and instruction is to be provided to all workers and other personnel in the need to vet all visitors as per policies and procedures before being granted entry and to fully negotiate the services to be provided in a pre-session agreement. The information provided should include prices, time constraints, the policy of non-refundable service fees, personal limitations including physical and psychological limits, safety precautions such as the need for checking clients at all times, time requirements and constraints and special needs (if any) of the client.

It is acknowledged by the managers that where problems arise, it is most likely to occur through a misunderstanding or misrepresentation of the services to be provided and/or the intoxication of a client. Intoxication problems can be associated with alcohol or other drug consumption and/or psycho or physical impairment and the client may then demand additional time outside of the original time-frame and/or demand a refund of his/her money. While all necessary precautions are undertaken to restrict unauthorized and/or intoxicated persons from gaining entry to the premises, it is acknowledged by the managers that it does not always require excessive and obvious alcohol or other substance use for sober functioning to be impaired.

The strategies for preventing entry to unauthorized and/or intoxicated persons and the pre-session agreement that all workers are required to enter into with the support of the managers and, will eliminate many of the problems which might generate client displeasure and/or result in violent or anti-social behaviour.

In the unlikely event of an incident occurring within the premises, the manager move away from the area, not to in any way escalate the situation and engage on site security staff to deescalate the matter.

For security purposes, the premises has only one public entry/ exit point from Darlinghurst Road (excluding emergency exits). The positioning of the ground floor entry area will ensure that all guests that enter the premises are clearly visible.

Additional to and in support of the above, the following strategies are to be implemented to further ensure the safety and security of all personnel, clients and visitors to the premises and external to the premises:

- Management and monitoring of all people entering and leaving the premises.
- Duress buzzers are strategically placed in each service, personnel private room and at the managers desk. It is important to note that duress buzzers should only be used when it is safe to do so and relevant training will be provided. This system will activate a buzzer/pager on security and/or management and security will immediately respond to a duress alarm.
- A safe designed and installed to Australian Standards is currently in place at the premises, Notwithstanding, the premises will not accept forms of cash payment.
- Installation of intruder alarm system designed and installed to the Australian Standard – Domestic and Commercial Alarm System
- Electronic Intercom system in each service room
- Pre-coded speed dial to emergency services
- CCTV cameras to monitor the premises, Including private rooms. With footage accessible to NSW Police upon request where required.
- Fire and other emergency evacuation plan. All personnel are to be trained in emergency evacuation procedures, including the use of the emergency services number coded into the telephone for easy access to emergency services.
- Fire safety. Fire extinguishers, exit signs/emergency lighting and smoke detectors are to be located throughout the premises as required by the Building Code of Australia. All fire safety equipment is to be serviced regularly and all personnel are to be trained in the use and operation of fire extinguishers. An annual fire safety statement is to be submitted to the consent authority.
- A street number identifying the location of the entrance to the premises is located at the front of the building and is clearly visible from the street.
- The premises will be equipped with remote door release mechanisms and there will be no internal locking devices on service room doors, the proposed doors to the private rooms will be translucent to enable passive surveillance by trained staff.
- Prior to entry, all visitors to the premises are to be vetted firstly through the security cameras and then via physical vetting at the entry door prior to being able to gain access into the facility.
- Adequate lighting for security purposes is to be located at the entrance.
- Maintenance of community liaison/incident and accident/injury registers
- Any breach of security or accident or injury is to be entered into the requisite registers. The community liaison/incident book is to be provided to police if and when necessary. Any serious accident, injury or emergency situation will be reported to WorkCover NSW

- Where circumstances warrant, the managers will contact police or other emergency services and all assistance will be given to them in their investigations
- Service time and wherever possible, special needs of clients are to be monitored and all workers advised to notify the managers if they are extending the original session time.

3.0.1 Safety, security and crowd management

CCTV will be installed in every private room, monitored continuously by security, bar staff, controllers (Refer to Section 3.1.1 for roles of *controllers*), and management. The private rooms will feature translucent glass doors, enhancing visibility and safety. Our unique audience participation recognition technology will be state-of-the-art, unlike any other venue. This technology will detect audience participation, triggering the lights in the rooms to turn up and the music to lower, while alerting management and security. To ensure the performers' safety, cameras will be monitored from the bar, office, and staff rooms. Emergency duress buttons will be installed in every private room for the dancers' immediate assistance.

We will manage extended trading hours in accordance with our alcohol management plan. All staff will be trained to recognize signs of intoxication and comply with current RSA laws. We will offer cheap, low-alcohol, and non-alcoholic options, with drinking water always available at the end of the bar and bar snacks on offer.

To prevent money laundering, our venue will strive towards being cashless by, utilizing EFTPOS, QR codes, and RDIF systems.

To combat drug use on-site, we will display strict drug policy signage in private rooms and bathrooms. Security staff will patrol the venue continuously, supported by advanced CCTV surveillance. All staff will be trained to recognize signs of drug use or intoxication, with managers and security staff consistently monitoring the CCTV footage each day. CCTV Footage will be stored for a period of 40 days and will be made available for inspection by Police upon request.

All security staff will be required to undergo a thorough induction and training to ensure they acknowledge all criteria set out by the licensee. This is to ensure all security staff have the proper training and competence to complete all security tasks as required, including weapons detection, and other security response methods. Metal detectors will be used by the trained security personnel and will be actively available at all times.

Furthermore, all guards, controllers, and security staff will be required to obtain a current NSW Security License subclass 1a & 1c, as well as hold a current First Aid and current NSW RSA Competency Card.

- a. A registered security company will be engaged to provide the necessary security guarding requirements.
- b. The licensee shall ensure the appropriate numbers of security guards are engaged at a rate of 2:100.

- c. The Licensee shall direct the required security personnel engaged to:
 - i. Accurately record their start and finish times in a register that is available or via digital electronic timesheets, available upon request.
 - ii. Security guards are to display their security licenses clearly and readily available upon request.
 - iii. Patrolling all internal areas of the venue, ingress and egress points, as well as the exterior of the premises along Darlinghurst Road, and Kellet Way in 30 minute intervals during business operating hours.

3.0.1.1 CCTV

High resolution CCTV surveillance will cover all areas of the venue open to the public and the front and back of the premises (except bathrooms) including private rooms. Locations will be well lit or infrared used to pick up clear images to identify patrons and staff where necessary. Cameras will be motion detecting and operating 24 hours a day.

Audience recognition CCTV camera technology will be in use at all times private shows are in use. This technology will detect audience participation, triggering the lights to brighten and the music to lower. It will alert management, security and controllers to respond.

Clear signs that state “Closed circuit television in use on these premises” will be on display in the primary entry. The signage will be in lettering in no less than 50mm.

All CCTV footage will be kept for at least 40 days for viewing by the police if requested and will contain an accurate date and time.

CCTV will be checked daily if operational, recording and unobstructed. Any issues with cameras will be reported to Kings Cross LAC and reported in the incident register.

There will be a staff member on the premises at all times the venue is open that is trained in accessing the footage.

Monitors displaying live camera views will be in all staff rooms and behind all bars.

3.0.2 Patron Management

Patrons will be guided to leave the venue in staggered groups to prevent congestion. The bar will close at 3:30 AM, and the music will be gradually altered to pacify patrons for a smoother dispersal. Security staff will patrol the footpath directly outside the venue and will be trained in crowd management.

To ensure smooth operations and minimize congestion on Darlinghurst Road, we have developed a meticulous strategy for managing the entry and exit of patrons at our venue. Our approach involves gradually closing sections of the venue, accompanied by a deliberate shift in music and atmosphere to encourage a steady dispersal of patrons. This methodical process aims to prevent overcrowding and maintain a safe environment for everyone.

In terms of security, we prioritize the safety and well-being of both patrons and staff with a comprehensive security plan. For every 100 patrons, we deploy three trained security guards who are adept in crowd control tactics and skilled in de-escalating potential conflicts. Additionally, we employ two RSA (Responsible Service of Alcohol) officers, ensuring responsible alcohol service is maintained throughout our venue.

To bolster our security measures, we maintain constant vigilance through CCTV monitoring. Our security team is in continuous communication, allowing for swift responses to any incidents or disruptions that may arise. This proactive monitoring system enables us to identify and address issues promptly, further enhancing the safety and comfort of our guests.

Moreover, all our staff members undergo rigorous training. They are equipped with the necessary skills to recognize early signs of intoxication and are trained in effective techniques to defuse situations involving aggressive behaviour. By fostering a proactive and well-prepared team, we create an environment where patrons can enjoy themselves with peace of mind, knowing their safety is our top priority.

We have been the sole owners and operators of showgirls since 1996. Showgirls has thrived by implementing these time-tested practices that have been instrumental to its renowned success. With a capacity of 200, *Showgirls* has consistently validated the efficacy of these methods over its impressive 28-year history.

In summary, our venue's operational strategies, coupled with our robust security measures and proactive staff training, ensure that we not only provide a memorable experience for our patrons but also maintain a safe and enjoyable environment for all. We are committed to upholding these standards to uphold our reputation as a responsible and customer-focused establishment.

3.0.3 Crowd control

Staff and security will be informed of the capacity. The number of patrons will be continuously monitored by the following methods:

- Patron identification scanners will be in use in accordance to agreement with Kings Cross LAC (Police).
- The capacity of 380 patrons will be displayed at the entry of the venue as required.
- In the event that the premises are at capacity, patrons wishing to enter will be requested to queue behind bollards in an orderly manner on the footpath outside the premises. Security staff will supervise the queue to ensure local businesses and pedestrian traffic is not unduly or impeded.
- Patrons will be guided to leave the venue in staggered groups to prevent congestion. The bar will close at 3:30 AM, and the music will be gradually changed to pacify the patrons for a smoother dispersal. Security will direct patrons to the taxi rank and night rider service on Bayswater Road, via the shortest and most direct route via Darlinghurst Road. Security staff will patrol the footpath directly outside the venue and immediate areas. They will also be trained in crowd management.

- Security personnel will be trained to identify inappropriate behavior and report to management and local enforcement agencies.
- Risk assessments will be used to identify potential risks and hazards when a large crowd is expected, noting compliance with the maximum patronage of 380.

Distinctive security attire, internal and external security patrols;

- Distinctive attire is to be worn with SECURITY clearly visible. Security will be wearing an identifying number that can be easily seen. The name of the security personnel allocated a particular number will be entered into a security sign on sheet at the start of every shift and checked by the manager on duty. Each entry is to record the start and finish times of the associated security personnel. The security sign on sheet will be made available to police on request.
- Patrols of the bathrooms and private rooms will be conducted on a regular basis, which will all occur at 30 minute intervals and will commence at the start of business trading hours to close of business. These patrols will be recorded in the security incident register.
- Security personnel will patrol the external the premises including Darlinghurst road and rear of the venue on kellett way. Security will be instructed to report any inappropriate behavior they observed in their patrols to Kings Cross LAC police.

Measures to prevent glass being carried from the premises by patrons;

- Entries and exits will be closely monitored by guards to ensure alcohol and glass will not exit the premises.

Measures to ensure safe capacities (eg. electronic counting of patrons, occupancy limits, signage);

- Security personnel will be equipped with manual counting devices that they will click when people enter and exit the venue.
- Manual head counts will be conducted by security in 30 minute intervals starting at 9:00 pm to close of business and be recorded to the security incident register.

Actions to be taken during ‘wind down’ periods prior to closing time:

- Patrons will be guided to leave the venue in staggered groups to prevent congestion. The bar will close at 3:30 AM, and the music will be gradually altered to pacify patrons for a smoother dispersal. Security staff will patrol the footpath directly outside the venue and will be trained in crowd management.
- Security guards shall remain at the premises for at least 60 minutes after closure of the venue.

3.0.4 Security patrol areas:

The extent of the security patrol areas outside of the premises are highlighted in the following floor plan (Figure 3).

The abovementioned security patrols will occur at 30-minute intervals and will commence at commencement of business to close of business. These patrols will be recorded in the security incident register.

Security guards shall remain at the premises for at least 60 minutes after closing the venue.

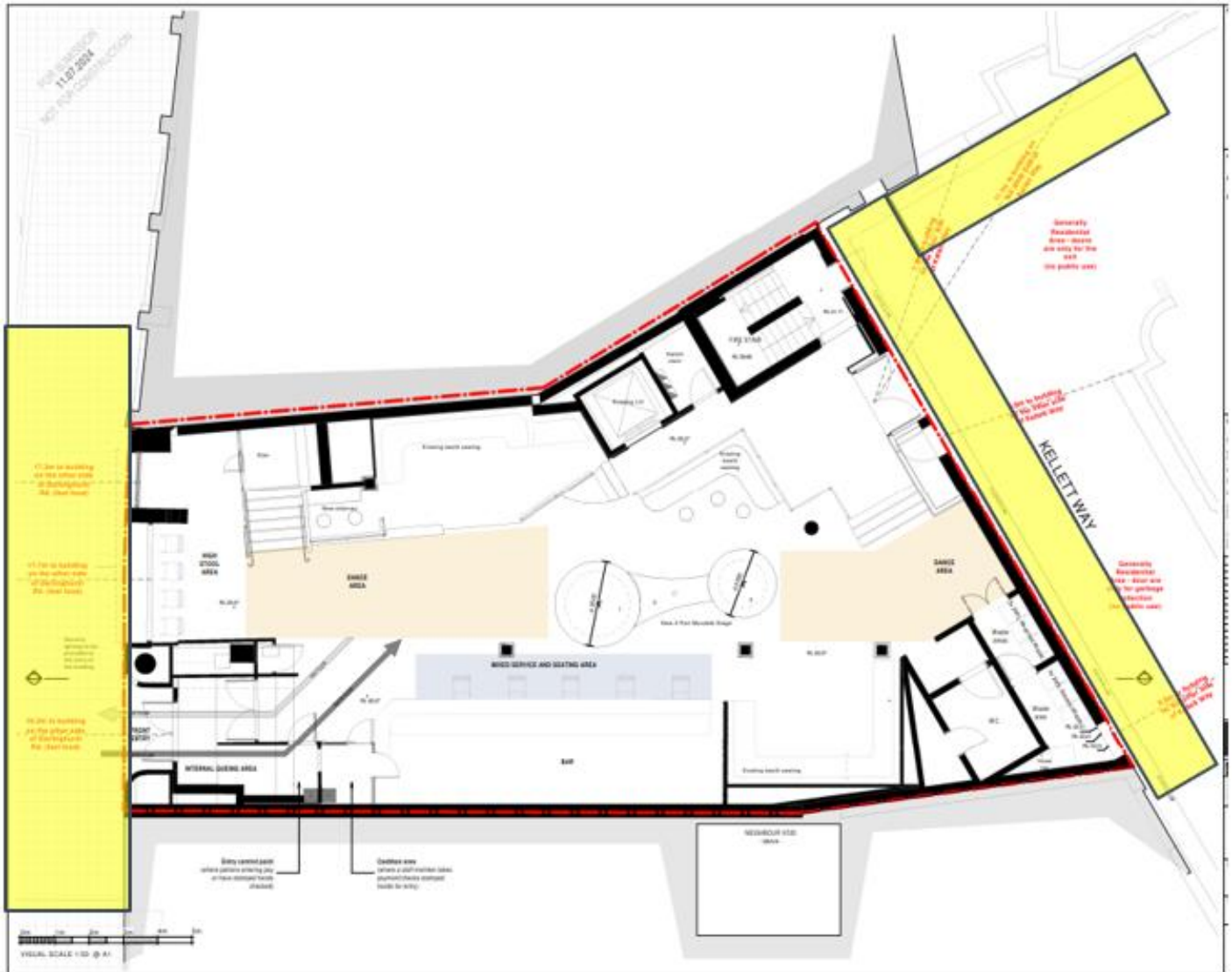


Figure 3: External security patrol areas

Floor plans

The following figures 4, 5, and 6 of the operational plan of management illustrate the floor plan of the premises and illustrates the following:

- The proximity of external doors, windows and other openings to residential and other sensitive land uses (Figure 5).
- The layout of all areas of the premises, such as internal queuing areas, seating, and dance areas inter alia (Figures 4, 5, and 6).

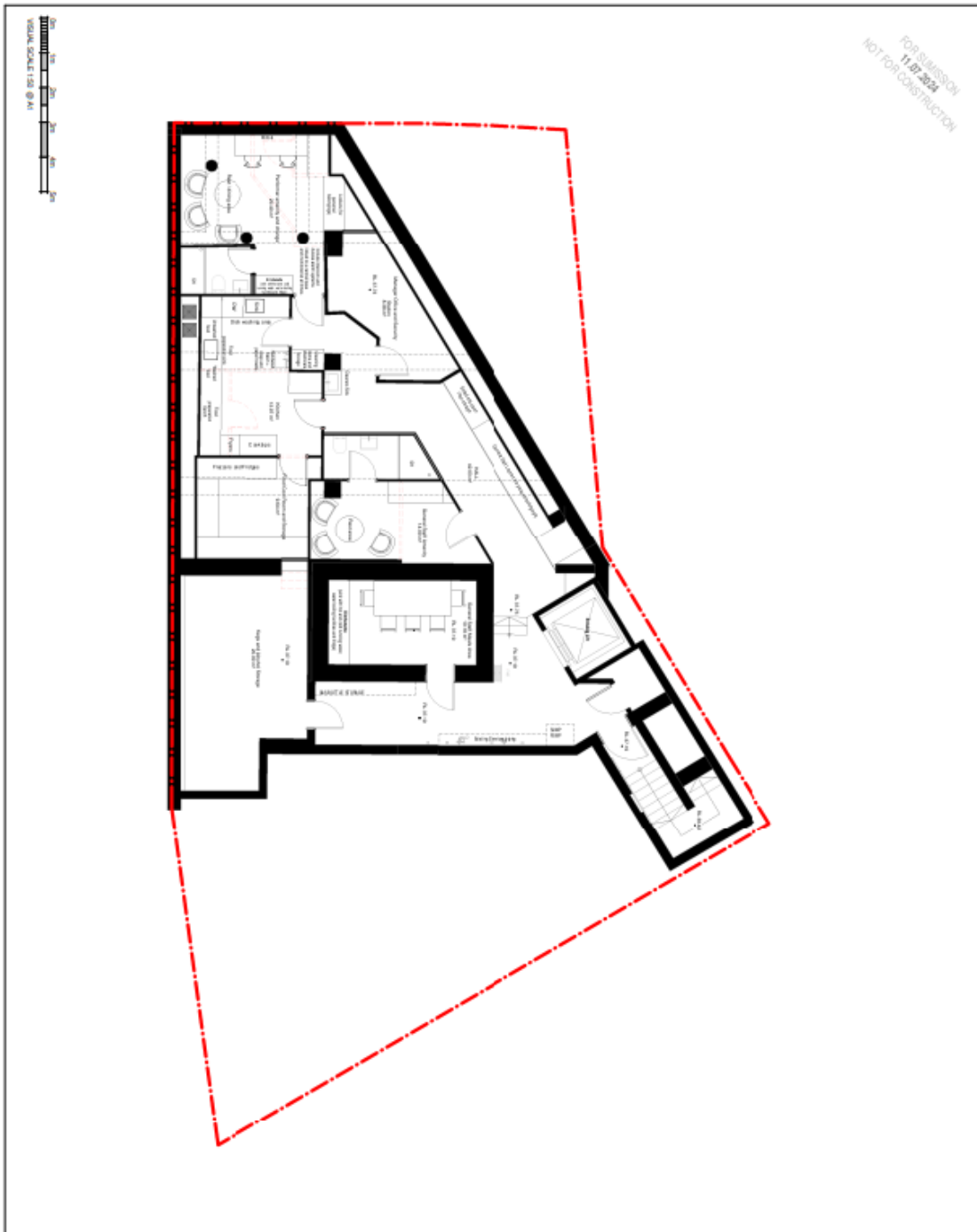


Figure 5: Ground floor plan



Figure 6: Mezzanine floor plan

3.1.1 No Audience Participation

- Audience participation is prohibited. By implementing these measures, the venue aims to ensure a safe and compliant environment for both staff and patrons, which also adheres to the legal requirements set out by the department of Liquor and gaming, and any relevant government agency.
- **Controllers:** The licensee will always have a Controller present while private shows are occurring inside the venue. The controller's responsibility is to monitor the private shows when they are occurring to ensure they are completely in compliance with the law and relevant liquor licenses as well as identifying intoxication and unacceptable behavior in order for security and management to respond promptly.
- **Performer compliance:** All performers employed at the venue are required to sign a drug and compliance acknowledgement form upon starting their employment. This form outlines specific rules and prohibitions, including no sexual activity, no touching of genitals (either of the dancers or the customers), and no audience participation.
- **Disciplinary action:** Any performer who violates the conditions of the relevant liquor license or the venues rules will face disciplinary action. This may include written warning, termination of employment, or other forms of punishment as deemed appropriate.

3.1.2 Restricting Access

The management policy on restricting access is to be prominently displayed at the entrance area and personnel private rooms. This Policy is to apply to underage access and unauthorized and unidentified entry to the premises of persons purporting to be from utilities services (gas and electricity), government departments/agencies (fire equipment maintenance, police, council or health authority) and other service providers.

The Policy contains the following information:

Restricted Access Policy
Persons under 18 years of age may not enter
Photo ID may be requested.

All service providers, including government officers must provide
identification.

Signed Management

The standard identification procedure used for restricting underage access, when the age of the person is questionable includes the following:

- Potential clientele will be screened prior entry at the main access point to the facility.
- Requesting photo ID or other acceptable identification.

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- If age is verified and is acceptable, the individual is permitted entry.
- If age is verified to be under 18, the individual will be denied access and escorted off the premises.
- If in any doubt about the age, even with photo ID, the individual will be refused entry.
- If an individual is denied entry, they will be requested to leave the premise in a quiet and orderly manner. And the incident is to be reported to the manager and entered into the premise incident book.

The same process is to be used to determine the age of potential personnel including staff, workers and visitors to the premises.

The standard procedure for checking the credentials of persons purporting to be from a utilities service (gas and electricity), government departments/agencies (fire equipment maintenance, police, council and health authority) and other service providers includes:

- Requesting identification and where possible photo ID.
- If identification is acceptable, the individual or individuals are permitted entry but are to be supervised at all times while on the premises.
- If in doubt about the identification, the individual/individuals will be refused entry and advised the house policy does not permit entry to service providers without appropriate identification. If the manager is not on the premises at the time, they will be provided with the manager's mobile number and advised to phone the manager to make an appointment.
- In the case of an individual/individuals being denied entry, they will be requested to leave the premises in a quiet and orderly manner and advised to phone the manager at a later time.
- Any unidentified and unauthorized attempted access will be reported to the manager and entered into the incident book

3.2 Conduct Policy

In order to minimize any potential amenity impacts on the surrounding land owners or occupiers by the arrival or departure of clients, visitors and personnel, the management policy on conduct is provided in personnel and staff training and is prominently placed in the main entry area and back of house staff amenity rooms.

This policy reflects the need to maintain a quiet and peaceful presence in the street and surrounds and for the discrete and orderly operation of the business. To this end, all personnel, clients and other visitors are made aware of noise restrictions and are instructed to enter and exit the premises in a quiet and orderly manner. Staff are instructed in telephone procedures in which all callers are provided with location details, business hours, session booking and other appointment requirements, car parking and public transport access information.

The conduct policy contains the following information:

CONDUCT POLICY

Access to our premises is from front of No. 42 Darlinghurst Street, Potts Point. The location is denoted by the number 42 located at the front of the building which is clearly visible from the street. The preferred method of access is to phone in advance to make an appointment, entry from passersby.

Unfortunately we are unable to provide on-site parking. There are limited metered on

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street public parking within proximity to the facility. Off site parking can be accessed at *Secure Parking – Kings Cross* at 9A Elizabeth Bay Road, Elizabeth Bay NSW 2011. A pre-booked appointment will advise of restrictions.

Additionally, a number of public transport nodes service the area from the Sydney CBD and surrounds including government bus services. The premises is within a 3 minute walk of Kings Cross railway station.

HOURS OF OPERATION

The premises operates per the following hours:

- Monday: 7am to 5am (following day)
- Tuesday: 7am to 5am (following day)
- Wednesday: 7am to 5am (following day)
- Thursday: 7am to 5am (following day)
- Friday: 7am to 5am (following day)
- Saturday: 7am to 5am (following day)
- Sunday: 7am to 5am (following day)
- Public holidays: 7am to 5am (following day)

Please ensure that when arriving and leaving our premises that you consider our neighbours and conduct yourself in a quiet and orderly manner.

Signed Management

3.3 Illegal Activities on the Premises

The Management Policy on illegal activities including the sale, use and supply of illicit drugs and/or intoxicated behavior on the premises is to be prominently displayed in the entry area and private rooms.

The Policy contains the following:

ILLEGAL ACTIVITIES POLICY

Illegal activities including the sale, supply and/or use of illicit drugs on the premise is strictly prohibited.

Anyone visibly affected by alcohol or drugs is not permitted entry. The Management may report any illegal activity to the Police.

Signed Management

Any personnel found involved in any illegal activity will be dismissed immediately and referred where applicable to relevant health and welfare services.

3.4 Responsible Service of Alcohol (RSA) Policy

At Hotel 42, our unwavering dedication to compliance with the Responsible Service of Alcohol obligations, as outlined in the Liquor Act 2007, underscores our commitment to fostering a safe and enjoyable environment for all patrons. Our comprehensive policy not only serves to provide clear guidelines for our staff but also serves as a cornerstone for our operations, complementing

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the rigorous Responsible Service of Alcohol training that each staff member undergoes before joining our esteemed team.

The purpose of the RSA policy is to provide staff with guidelines referring to the service, supply, consumption and dealing with intoxicated patrons.

3.4.1 DEFINITION

Responsible Service of Alcohol is a multifaceted approach aimed at achieving several key objectives:

- Mitigating the occurrence of alcohol-related problems, including anti-social behavior and violence, within our premises.
- Implementing and upholding best practices in the sale and supply of alcohol, thereby ensuring the safety and well-being of our patrons.
- Proactively addressing and preventing disturbances within the local neighborhood that may be associated with alcohol consumption, thus fostering positive community relations and enhancing our social responsibility.

3.4.2 EMPLOYEE RESPONSIBILITIES

Our valued staff members are entrusted with the following pivotal responsibilities:

- Wholeheartedly embracing and adhering to the policies outlined in this document to maintain the highest standards of responsible alcohol service.
- Remaining vigilant and promptly notifying management upon observing any patron who may be approaching or exhibiting signs of intoxication.
- Demonstrating care and concern for patron well-being by offering water when deemed necessary to counteract the effects of alcohol consumption.
- Ensuring the possession of their RSA competency card on-site, ready to be presented to law enforcement or liquor and gaming authorities upon request, as a testament to their commitment to responsible service.
- Comply with the RSA policy.
- Notify management if a patron is approaching or is intoxicated.
- Provide water when necessary.

3.4.3 MANAGEMENT RESPONSIBILITIES

The management team plays a crucial role in upholding the integrity of our alcohol service through the following proactive measures:

- Conducting thorough verification of prospective employees' competency cards before employment, retaining copies for meticulous record-keeping and compliance purposes.

- Regularly monitoring and assessing staff members to ensure ongoing competency and adherence to responsible service standards, thereby maintaining the credibility and reputation of our establishment.
- Prior to employment check competency card obtained, take a copy for the business records and file in the register file.
- Do regular checks to see if staff have their competency card/digital license.
- Note and file calendar expiry dates to ensure refresher course is completed.

3.4.4 PROCEDURES

Signs of Intoxication

Staff members are encouraged to rely on their keen observations to identify potential signs of intoxication, which may include but are not limited to:

- Slurred speech.
- Impaired balance and coordination.
- Inappropriate behavior, such as aggression or hostility.
- The smell of alcohol.
- The amount of alcohol they have consumed since arrival.
- Lack of coordination.
- Rude aggressive or unusually loud behavior.

Preventing Intoxication:

To mitigate the risk of patrons becoming intoxicated, our dedicated staff members are empowered to take proactive measures, including but not limited to:

- Ensuring that free water is readily available and accessible to patrons at all times throughout their visit, promoting responsible hydration and mitigating the effects of alcohol consumption.
- Offering a diverse range of food options upon request, not only providing sustenance but also helping to slow the absorption of alcohol into the bloodstream, thereby reducing the risk of intoxication.
- Promoting non-alcoholic or low-alcohol beverage alternatives to patrons, providing them with viable options to enjoy their time responsibly while minimizing the risk of overconsumption.
- To further enhance our commitment to responsible alcohol service and patron safety, RSA Marshals will be stationed onsite at all times. These dedicated individuals will play a vital role in monitoring patron behavior, intervening when necessary to prevent overconsumption of alcohol, and ensuring the safety of all patrons within our establishment.

3.4.5 Refusing Service

Employees must not serve any patron, or supply alcohol to any person who is affected by alcohol or who is approaching intoxication. Security staff must not grant entry to any person who is drinking alcohol on approach to the venue. They must also refuse anyone who is showing signs of intoxication. If a patron is asked to leave due to being intoxicated, they must:

- Leave the venue immediately.
- Leave the vicinity of the premises by being at least 50m away.
- Not to re-enter the venue within 24 hours
- Management to call police for failure to comply with any of the above

By steadfastly adhering to the principles outlined in this policy and working collaboratively as a team, we endeavor to uphold the highest standards of responsible alcohol service and ensure the safety and well-being of all patrons at hotel 42.

3.4.5 Incident Register

It is the responsibility of the Licensee/Manager on duty to complete the Incident Register for anyone who is asked to leave the premises due to intoxication or registered noise complaints. Details must include:

- Time and date of incident.
- Brief description of patron (gender, ethnicity, height, age, clothing, hair colour etc.)
- Description of incident and how it was dealt with.
- Signed by manager/licensee.
- complaint date and time;
- name, contact, and contact and address details of person(s) making the complaint;
- Action taken by premises to resolve the complaints;
- Incident date and time;
- Nature of incident;
- Staff member responding to incident;
- Action taken to resolve or rectify.

Incidents must be reported and recorded within the NSW Liquor and Gaming Incidents register black book in accordance with the referenced at: <https://www.liquorandgaming.nsw.gov.au/working-in-the-industry/licensees-and-approved-managers/incident-registers>

3.4.6 Complaints Register

Details of any complaints associated with the operation of the premises must be recorded in a Complaints Register which includes:

- 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.

3.5 Control of Anti Social Behavior

As stated previously in this document, prevention of anti-social behaviour is the first course of action. To this end, all visitors are vetted before being allowed into the premises. The system for vetting clients and other visitors occurs firstly through the security cameras monitoring the entrance to the premises.

The managers or trained staff then assesses whether to permit entry to the person first, having conversed with them at the security door. Any visitor that appears aggressive, severely affected by alcohol, under the affects of drugs or otherwise suspicious will be politely refused entry and requested to leave the premises. The managers are to attend to the matter in as diplomatic a manner as possible. In the event a person refuses to leave the premises, the police will be called immediately.

3.5.1 Crime Scene preservation

If a violent incident occurs in the venue and someone is injured, staff must:

- Take all reasonable steps to preserve the scene
- Retain anything that was used in the incident (eg weapon, glass etc..).
- Follow the procedures in the NSW Police Crime Scene Preservation Guidelines (see below).
- Ensure the Sydney District Police Commander is advised of the incident.
- Follow any instructions or directions given by the Police Commander.



Crime Scene Preservation Guidelines **LICENSED PREMISES**

Responsibilities of licensees, managers and staff

- Immediately contact '000' or local police station.
- Render any required first aid.
- Determine the crime location scene and remove all persons from the area. Cordon off the area with things such as bar stools, tables, tape or consider closing off the area completely for areas such as toilets or hallways. (Remember there may be multiple crime scenes).
- Do not allow any persons to enter this area.
- **DO NOT CLEAN UP ANY CRIME SCENE.** You may be destroying vital evidence.
- Assign a member of staff to guard all crime scenes until the arrival of police.
- Remember some evidence may not be visible to the naked eye such as blood, semen, skin cells, saliva, hair or fingerprints.
- Do not move any items that may have been involved in an offence unless absolutely necessary or someone's safety is at risk (for example, evidentiary items may be contaminated or destroyed due to getting wet. Use disposable gloves to stop transference of your DNA or fingerprints).
- Notify police if any items have been moved or removed from the crime scene. (Items may include bottles, glasses, pool cues, clothing, furniture, weapons or cigarette butts).
- Make notes in relation to the incident. Time, date, location, description of offender/s, vehicle/s involved, weapons used, last known direction of offender/s, any movement of items involved in the incident.
- Obtain any CCTV footage and the security sign on sheets.
- Obtain any details of witnesses and try to keep all witnesses separated so as to maintain the integrity of their evidence. (Try to dissuade witnesses from leaving the premises before police arrive).
- Hand this information to police on arrival.
- Be prepared to make a statement to police regarding the incident.

Deliberate interference with evidence may constitute an offence. You may be liable to prosecution or disciplinary action and this may result in the closure of the premises.

The information provided in this fact sheet is for general guidance only. Local police are available to provide further guidance.



Figure 7: Crime Scene Preservation guideline

3.6 Emergency procedures

All personnel are to be trained in emergency procedures as part of ongoing personnel training including familiarity with evacuation procedures, fire exits and position and use of fire extinguishers throughout the premises. In the event of fire or other emergency requiring evacuation of the premises, the manager will implement evacuation procedures. All persons are to be removed from the premises immediately. The manager will report the fire or other emergency immediately to the appropriate emergency service via the pre-coded entry in the telephone

In the event of a situation occurring where medical assistance is required, the manager will call emergency services for an ambulance and all assistance and necessary information will be provided.

3.7 Maintenance, Services and Supplies

The premises is to be kept in a satisfactory state of repair at all times and is to be evaluated periodically to determine the state of repair or supply of goods and services.

3.8 Cleaning of Premises

The premises is to be kept in a clean, hygienic and tidy condition ranging from full daily cleaning by a contract cleaner to daily maintenance and spot cleaning which, is to be attended to by the manager and/or staff. The manager will provide appropriate training, cleaning products and equipment including gloves to provide a clean and safe environment.

All sanitary facilities are to be cleaned daily. They are to be cleaned first with neutral detergents and any bleach or disinfectants are to be used strictly in accordance with the manufactures instructions.

All equipment used for mopping including mop and bucket are cleaned with warm water and detergent after use and the equipment is then stored to dry with buckets placed upside down and mop heads supported off the ground. Cloths used for cleaning sanitary facilities and surfaces are to be disposed of after use.

All personnel including workers and the contract cleaner are required to wear gloves when performing any cleaning duties and are advised to wash hands firstly with gloves on and again after removing gloves. Other occupational health and safety issues in respect to cleaning are provided for in the occupational health and safety training program.

3.9 Health and Safety

The health and safety of workers, clients, other personnel and visitors is of paramount concern to the managers together with the overall safe, secure and hygienic operations of the premises. To this end, the following strategies have been developed and are to be implemented as part of the workplace occupational health and safety training:

- Promotion and support of safe work practices.
- Safe handling policy and procedure for disposal of sharps and sharps safes
- An accident/ injury register is to be kept on the premises and maintained by the manager. Any serious accident, injury or other emergency is reported to WorkCover NSW
- The managers are to liaise regularly with health and related authorities to ensure that best practice health and safety procedures are adhered to. Up to date information in the form of advice and print material is to be accessed through the NSW Health

Department. This information is to be available in a variety of most frequently spoken languages.

- CPR procedures are to be placed on the back of all client private rooms, bathrooms and staff personnel amenities.
- The trained staff team are to carry out regular spot cleaning of the premises.
- Liquid soap and paper towels are provided in all sanitary facilities and personnel private facilities. Bactericidal liquid soap is to be used in the pump action soap dispensers at hand basins.
- All personnel are to be given ample time to attend meetings and other information gathering opportunities relevant to workplace occupational health and safety issues.
- Smoking is only permitted within the designated smoking room within the building.

3.10 Management policies and procedures

The induction and refresher training program for all personnel shall include the practical application of the following management policies and procedures:

- Service of alcohol plan
- Restricted Access Policy
- Illegal Activities Policy
- Conduct Policy
- Dealing with difficult/anti-social and/or violent behavior including process for and content of pre-session agreements
- Emergency procedures including how to summons emergency service assistance, location and use of fire extinguishers and emergency exits and evacuation procedures
- Use and maintenance of security mechanisms including back to base alarm system, intercom and duress buzzers. It is important to note that duress buzzers should only be used when it is safe to do so.
- Use and maintenance of community liaison/incident register including reporting requirements
- Use and maintenance of accident/injury register including reporting requirements
- Implications of Section 13 of the Public Health Act 1991.

3.11 Occupational Health and Safety Policies and Procedures

The induction and refresher training program for all personnel shall include the practical application of the following occupational health and safety procedure:
Hygiene, cleaning and maintenance requirements and processes (To provide for the appropriate cleaning and the health and safety of contract cleaning personnel and others engaged in any cleaning duties, information is to be provided on infection control requirements and safety precautions.

3.12 Waste Management

A trade waste contractor will be contracted on a daily basis, including the removal of trade waste. In addition, staff will be required to carry out spot cleaning requirements during shifts. The frequency of trade waste collections will be regularly reviewed and additional collections will be implemented as needed.

The following arrangements provide for the requisite storage, handling and disposal of waste:

- A secure garbage storage area is located at the premises and will accommodate both putrescible waste and recycling bins.
- Service room waste bins are to be lined with waterproof liners and are to be emptied following each incident of room use. Waterproof liners are then to be replaced in the waste bins. Waste is then placed in the main garbage receptacles awaiting collection.

The licensee shall take all reasonable steps to ensure deliveries to the premises are made at a reasonable time to maintain the quiet and good order of the neighborhood so as to mitigate and avoid any negative amenity impact to adjoining landuses.

3.13 Car Parking

There is no provision for on site parking. Clients and others are to be advised of the location of the nearest public parking station as identified in the premises Conduct Policy along with location and means of other modes of public transport.

3.14 Signage

The only signage the premises will display includes:

- a clearly visible street number which is to be located above the entrance to denote the entry point
- notation of the business hours is located on the entrance door to the premises

3.15 Noise and Acoustic Management

As per Clause 3.2 Conduct Policy, all personnel, visitors and clients are made aware of noise restrictions and are instructed to enter and exit the premises in a quiet and orderly manner.

The premises must comply with all relevant and applicable noise and vibration standards, guidelines and legislation (eg. Australian Standards, Protection of the Environment Operations Act 1997, EPA Industrial Noise Guidelines).

In accordance with Section A7 of the City of Sydney “Adult Entertainment and Sex Industry Premises Development Control Plan (2006),”:

The use of the premises will not give rise to:

- (i) The emission of an “Offensive Noise”; or
- (ii) Transmission of vibration to any place of different occupancy; or
- (iii) An indoor sound pressure level in any place of different occupancy greater than 3dB(A) above the L90 background level of any affected property between the hours of 7am to midnight daily and 0dB(A) above the L90 background between midnight and 7am.

An “Offensive Noise” is defined in the *Protection of the Environment Operations Act 1997*.

Acoustic Management

The operation of the premises will remain compliant with the operational recommendations of the accompanying acoustic statement by *Acoustic Logic* dated 29/09/2023 as revised, which includes:

- All entry doors within the development should remain closed at all times, exclusive of patron ingress and egress.
- Where appropriate, acoustic seals on entry doors from the bounding roads (Darlinghurst Road and Kellett Way) should be installed to reduce overall noise spill from internal activity to external areas. Indicatively, this would be through Raven RP10 seals installed to the door perimeter, RP38si to the bottom and RP16si to the door meeting stile.
- Any required amplified music systems supplementary to the existing speaker system should be appropriately vibration isolated as to not induce structure borne noise.
- In the event of recurring complaint with respect to the noise levels generated by amplified music from surrounding noise sensitive receivers, noise levels may be able to be controlled through use of a noise limiting system to ensure compliance with relevant consent conditions. If a noise limiter were to be required, this should be installed as per a suitably qualified acoustic consultant’s advice with respect to maximum internal noise levels for external compliance.

The use of the premises shall not result in the LA10 noise level being emitted from the licensed premises exceeding the background noise level in any octave band (from 31.5 Hz to 8KHz centre frequencies inclusive) by more than 5dB between 7.00am and 12.00 midnight at the boundary of any affected residential property.

Between 12.00 midnight and 7.00am, the use of the premises shall not result in LA10 noise level in any octave band exceeding the background noise level at the boundary of any affected residential property.

The LA10 noise level shall not be audible within any habitable room in any residential premises between the hours of 12.00 midnight and 7.00am.

Noise sources include public entertainment and patrons entering or leaving the Premises.

The premises will not transmit any vibrations to any place of a different occupancy or any offensive noise as defined in the noise control act, 1975.

When using amplified equipment loudspeaker or loudspeaker system will be placed in accordance with Environmental Protection Authority Manual Noise from shops p.551.

Operational Plan of Management – 42 Darlinghurst Road, Potts Point

Speakers will be located entirely inside the premises and not situated less than 3m from any public entrance to the premises.

Speakers when in use will not be directed towards any wall which contains an external window or entrance to the premises.

Sound and vibration measuring devices will be permanently fixed to the front, rear and roof of the building to alarm us when sound could be disturbing to neighbors notifying us when to improve measures.

3.16 Ventilation and Lighting

The premises is to be ventilated in accordance with the requirements of the Building Code of Australia. Additionally, the premises shall be provided with adequate lighting in accordance with Australian Standards AS 1680.

Dated: 16 July 2024

SIGNED by the Directors of Hotel 42/ Asteri Holdings Pty Ltd.

..... **Signed Management**

**Mr. Manthos
Papadopoulos**

..... **Signed Management**

[Name of director]

Attachment D

Submissions

From: [redacted] on behalf of [redacted]
[redacted]

Sent on: Thursday, January 18, 2024 10:26:19 AM

To: City of Sydney <council@cityofsydney.nsw.gov> [redacted]

Subject: D/2023/987 42 Darlinghurst Rd

Attachments: Final Late Night Trading Areas summary map (7).pdf (3.44 MB)

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Please keep my name and email private. [redacted]

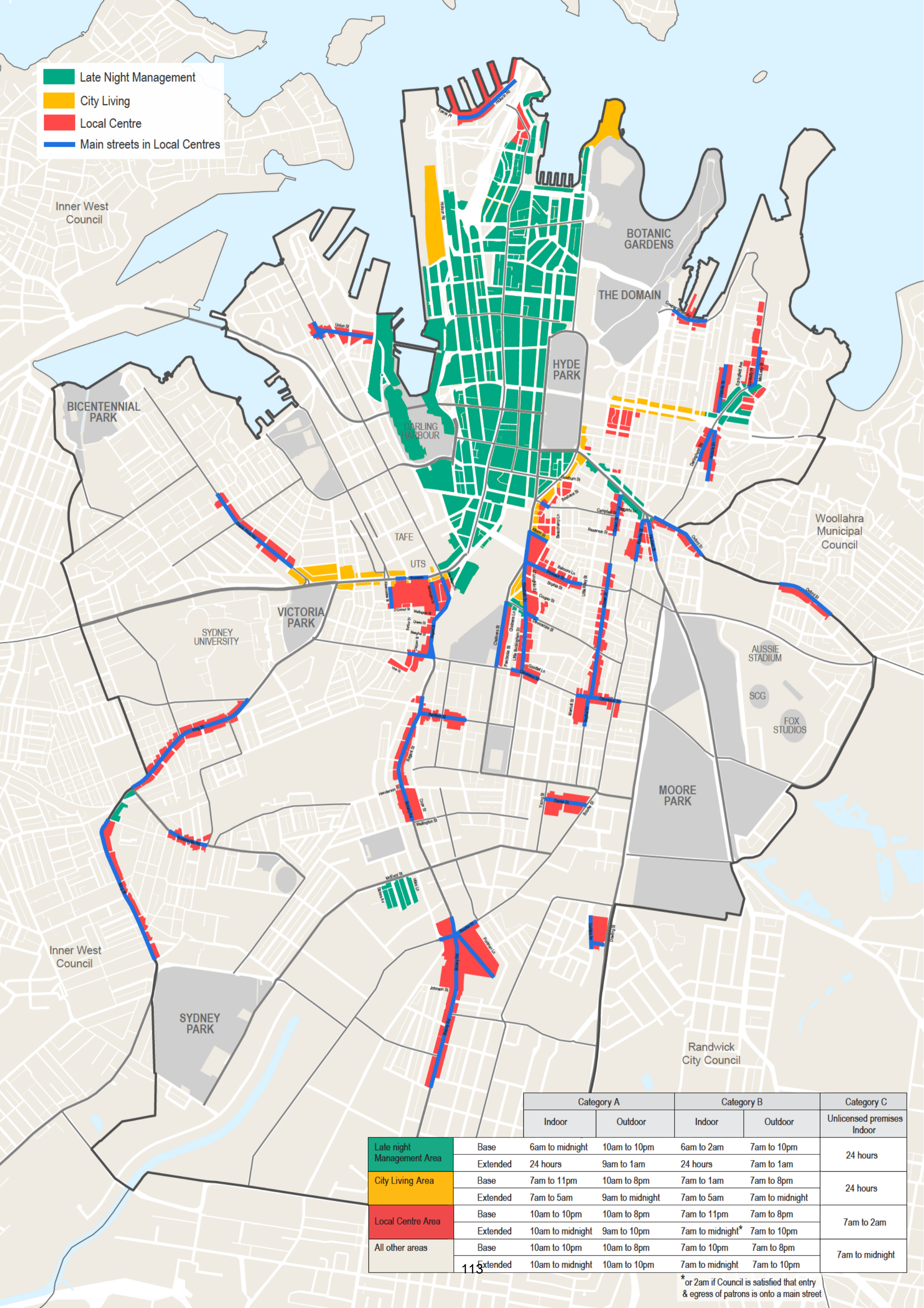
I live withing the notification distance of this DA (D/2023/987). As I understand the DA it is for conversion of the space into a strip club (adult venue) that is seeking to operate 365 days a year (Monday – Sunday + Holidays) from 7am to 5am the next day. I have several concerns:

1. Kings Cross has radically changed over the last decade from an intense nightlight district to a mixed late-night district and increasingly residential area (which was strongly driven by council regulations and council now needs to consider the increased residential character and the much more controlled character of the late-night district). This property and its extended hours of operation were first granted when the KC was in its pre-lockdown former intense nightlife strip phase. Such fully granted extended hours of operation are no longer appropriate and should not be granted.
2. Further the operator and specific use applied for at the premises has no track record of operation and should be limited in its late night trading to the Base Hours and extension of late night trading to Extended Hours should only be considered, if ever considered, in the future when the operator and venue has a proven track record of managing the facility in a way that demonstrates their ability to control impacts and manage the facility and its customers.
3. This venue has dual street frontages and should have ingress and egress (except for emergencies and material loading) off Darlinghurst Rd to ensure the impacts of customers attending the site does not bleed into the highly residential and earlier trading rules of Kellett way and Kellett St. the Kellett Street doors should be alarmed and not for customer use.

		Category A		Category B		Category C
		Indoor	Outdoor	Indoor	Outdoor	Unlicensed premises Indoor
Late night Management Area	Base	6am to midnight	10am to 10pm	6am to 2am	7am to 10pm	24 hours
	Extended	24 hours	9am to 1am	24 hours	7am to 1am	
City Living Area	Base	7am to 11pm	10am to 8pm	7am to 1am	7am to 8pm	24 hours
	Extended	7am to 5am	9am to midnight	7am to 5am	7am to midnight	
Local Centre Area	Base	10am to 10pm	10am to 8pm	7am to 11pm	7am to 8pm	7am to 2am
	Extended	10am to midnight	9am to 10pm	7am to midnight*	7am to 10pm	
All other areas	Base	10am to 10pm	10am to 8pm	7am to 10pm	7am to 8pm	7am to midnight
	Extended	10am to midnight	10am to 10pm	7am to midnight	7am to 10pm	

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- Late Night Management
- City Living
- Local Centre
- Main streets in Local Centres



		Category A		Category B		Category C
		Indoor	Outdoor	Indoor	Outdoor	Unlicensed premises Indoor
Late night Management Area	Base	6am to midnight	10am to 10pm	6am to 2am	7am to 10pm	24 hours
	Extended	24 hours	9am to 1am	24 hours	7am to 1am	
City Living Area	Base	7am to 11pm	10am to 8pm	7am to 1am	7am to 8pm	24 hours
	Extended	7am to 5am	9am to midnight	7am to 5am	7am to midnight	
Local Centre Area	Base	10am to 10pm	10am to 8pm	7am to 11pm	7am to 8pm	7am to 2am
	Extended	10am to midnight	9am to 10pm	7am to midnight*	7am to 10pm	
All other areas	Base	10am to 10pm	10am to 8pm	7am to 10pm	7am to 8pm	7am to midnight
	Extended	10am to midnight	10am to 10pm	7am to midnight	7am to 10pm	

* or 2am if Council is satisfied that entry & egress of patrons is onto a main street

From: Shae Courtney [REDACTED] on behalf of Shae Courtney

[REDACTED] <Shae.Courtney@cityofsydney.nsw.gov.au>

Sent on: Saturday, January 27, 2024 7:33:05 PM

To: dasubmissions@cityofsydney.nsw.gov.au [REDACTED]

Subject: Submission - D/2023/987 - 42 Darlinghurst Road POTTS POINT NSW 2011 - Attention Joe Wang

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

Dear Joe Wang,

I write in relation to D/2023/987.

I support the application to amend local approvals to include the premises as a licensed restricted premises as described.

In addition, consideration should be given to improving the amenity of the building facing Kellett Way and to ensure that the frontage to Darlinghurst Road considers the historical significance of the building by modifying the existing building entrance door to reflect its original modernist architecture while maintaining the discreet nature of the building's operations.

I have no other concerns with the proposal as presented and support continued investment in the area.

Kind regards,

Shae Courtney

--

Shae Courtney

t: + [REDACTED]

e: [REDACTED]

Item 5.**Development Application: 231 Chalmers Street, Redfern - D/2024/477**

File No.: D/2024/477

Summary

Date of Submission:	18 June 2024. Additional plans and information were submitted on 2 July 2024 and 16 July 2024.
Applicant:	Thanh Thuy Nguyen
Architect/Designer:	NTH Studio
Owner:	Thanh Thuy Nguyen
Planning Consultant:	aSquare Planning
Cost of Works:	\$90,000
Zoning:	<p>The site is located within the R1 General Residential zone under the Sydney Local Environmental Plan (Sydney LEP) 2012.</p> <p>The proposal, defined as a secondary dwelling, is permissible with consent.</p>
Proposal Summary:	<p>Consent is sought for alterations to an existing garage and change of use to a secondary dwelling. The proposed secondary dwelling includes a studio dwelling, bathroom and kitchenette and has a floor space of 18 sqm.</p> <p>The proposed development involves a variation to the 'car parking spaces' non-discretionary development standard for a secondary dwelling, as specified under Clause 53 of State Environmental Planning Policy (Housing) 2021. A written request has been submitted to vary the non-discretionary development standard in accordance with clause 4.6 of Sydney LEP 2012.</p> <p>The application is referred to the Local Planning Panel for determination as the variation to the 'car parking spaces' for non-discretionary development standard exceeds 10 per cent.</p>

Additional Information

Following a preliminary review of the application, the applicant was requested to provide a Waste Management Plan and overshadowing plans. This information was submitted on 1 and 2 July 2024. Further information was requested on 11 July 2024 including elevations and sections plans, a materials and finishes plan and further window details.

Additional information was submitted by the applicant on 16 July 2024.

Notification

The proposed development was notified for a period of 14 days between 26 June 2024 and 11 July 2024. A total of 159 properties were notified and one submission was received.

Issues raised in the submission include potential overshadowing impacts to the residential dwelling to the south. The public submission has been addressed within this report.

Conclusion

The proposal is generally consistent with the relevant objectives and provisions of the Housing SEPP and Sydney LEP 2012.

Despite the departure in the 'car parking spaces' non-discretionary development standard, the proposal responds satisfactorily to the surrounding developments and context.

The proposed alterations to the existing garage respond satisfactorily to surrounding development in terms of bulk and scale, do not result in any significantly adverse amenity impacts and are consistent with the desired future character including the provision of greater housing diversity in areas with good access to public transport and services.

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

Development Controls:

- (i) Sydney Local Environmental Plan 2012
- (ii) Sydney Development Control Plan 2012
- (iii) SEPP (Resilience and Hazards) 2021

- (iv) SEPP (Industry and Employment) 2021
- (v) SEPP (Transport and Infrastructure) 2021
- (vi) SEPP (Biodiversity and Conservation) 2021
- (vii) SEPP (Planning Systems) 2021
- (viii) SEPP (Precincts – Eastern Harbour City) 2021
- (ix) SEPP (Precincts – Regional) 2021

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Clause 4.6 Variation Request - Car Parking
- D. Submission

Recommendation

It is resolved that:

- (A) the variation requested to the car parking spaces non-discretionary development standard in accordance with Clause 4.6 'Exceptions to development standards' of the Sydney Local Environmental Plan 2012 be upheld; and
- (B) consent be granted to Development Application Number D/2024/477 subject to the conditions set out in Attachment A to the subject report.

Reasons for Recommendation

The application is recommended for approval for the following reasons:

- (A) The proposed development is permitted with consent in the R1 General Residential zone.
- (B) The development exhibits design excellence under Clause 6.21C of Sydney Local Environmental Plan 2012.
- (C) The development responds appropriately to the scale of surrounding buildings and is compatible with the character of the Prince Alfred Park South locality and the Redfern Estate heritage conservation area.
- (D) The development will not unreasonably compromise the amenity of neighbouring properties, including demand for on-street car parking.
- (E) The development is generally consistent with the objectives of Chapter 3 Part 1 of State Environmental Planning Policy (Housing) 2021, Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

- (F) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that 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 'car parking spaces' development standard is unreasonable or unnecessary and that there are sufficient planning grounds to justify contravening section 53(2)(b) of State Environmental Planning Policy (Housing) 2021.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot A in Deposited Plan 33095, known as 231 Chalmers Street, Redfern. It is rectangular in shape with area of approximately 156 sqm. It has a primary street frontage of 5 metres to Chalmers Street and a secondary street frontage of 31 metres to Wells Street. The site is relatively flat with a gentle slope of 0.3m from the west to the east.
2. The site currently contains a three-storey mixed use terrace development. The ground floor of the existing building features a food and drink premises presently known as 'Suburgia' and a separate dwelling which occupies part of the ground floor as well as the first floor and attic space. The existing garage is located at the rear of the site and has access to Wells Street. The existing development is built to all boundaries and the site is void of any vegetation or trees.
3. The surrounding area is characterised by a mixture of land uses, primarily being residential and commercial. To the north of the site is the Woolpack Hotel, a licensed venue. To the south, east and west of the site is a range of residential typologies including terrace housing to the south and west and high-density residential development to the east. Further south of the site is Redfern Street, which provides a range of business premises.
4. The site does not contain any local or State heritage items but is located within the Redfern Estate heritage conservation area (C56). The building on the site is considered contributory to the heritage conservation area. The site is partially identified as being subject to flooding.
5. A site visit was carried out on 5 July 2024. Photos of the site and surrounds are provided below.



Figure 1: Aerial view of site and surrounds (site identified in blue)



Figure 2: Site viewed from Wells Street



Figure 3: Inside the existing garage at the site

History Relevant to the Development Application

Development Applications

6. **DU/2003/213** - granted approval for internal and external alterations, rear extension, use front section of ground floor as café (operating 7am to 7pm Monday to Friday and 8am to 3pm Saturday and Sunday with a maximum of 10 seats) and remainder of premises as a dwelling.

Condition 11 of development consent DU/2003/213 (as amended) states “that the existing onsite car parking space shall be retained”. The recommended conditions of consent at Attachment A include a notice of modification to delete condition 11 of DU/2003/213 pursuant to section 4.17(b) and (c) of the Environmental Planning and Assessment Act, 1979.

7. **PDA/2023/174** - Pre-DA advice was issued on 6 October 2023 in relation to the proposed works. The following advice was provided:
 - The additional dwelling would not be defined as a ‘dual occupancy’ and would be defined as a ‘secondary dwelling’.
 - Any development application to convert the existing car parking space into a self-contained secondary dwelling, would need to be supported with a written request that seeks to justify the contravention of the development standard via Clause 4.6 of Sydney LEP 2012.
 - Should approval be granted, the consent would include a notice of modification to delete condition 11 of DU/2003/213 pursuant to section 4.17(b) and (c) of the Environmental Planning and Assessment Act, 1979.
 - Further details on the design treatment/ materials such as the framing, including whether any windows would be operable and at the same time provide privacy and security, would need to be submitted.
 - Section 4.2.6.3(1) Waste and recycling management of SDCP 2012 requires that waste handling, storage and collection systems for residential and non-residential waste are to be separate and self contained.
 - A flood report from a qualified engineer will need to be provided to demonstrate how the proposal to convert the garage into a habitable space complies with Council’s requirements.

Additional Information

8. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information was sent to the applicant on 28 June 2024. The requested additional information was a Waste Management Plan and overshadowing plans.
9. The applicant responded to the request on 1 July and 2 July 2024, and submitted the requested Waste Management Plan and overshadowing plans.
10. An additional request for information was sent to the applicant on 11 July 2024 requesting a materials and finishes schedule and additional elevation and sections that delineate the proposed works.

11. The applicant responded to the request on 16 July 2024 and submitted the requested additional plans.

Proposed Development

12. The application seeks consent for the following:

- Demolition of the glass roof and courtyard awning on the garage.
- Construction of secondary dwelling within the garage space including a studio, bathroom, kitchenette and windows and roof with operable skylight with a floor space area of 18 sqm.
- Installation of new bin space and new gate to Wells Street.
- Change of use from a garage to a secondary dwelling.

13. Selected drawings of the proposed development are provided below and in Attachment B.

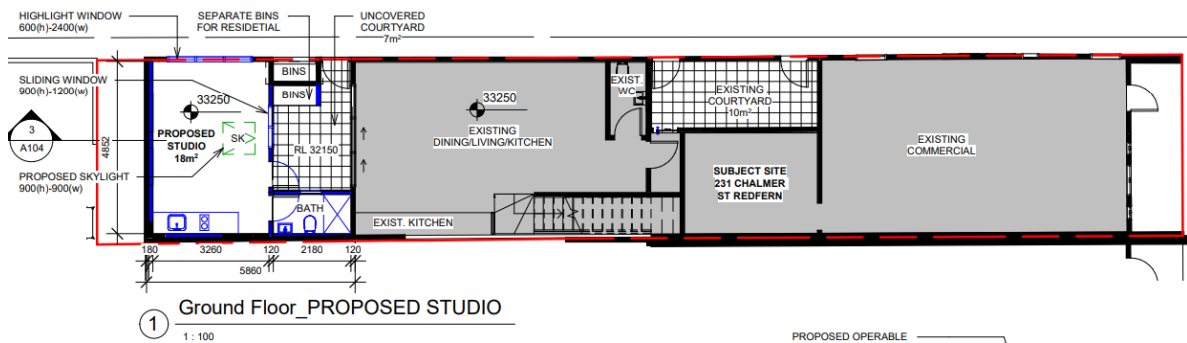


Figure 4: Proposed ground floor plan (works indicated in blue)

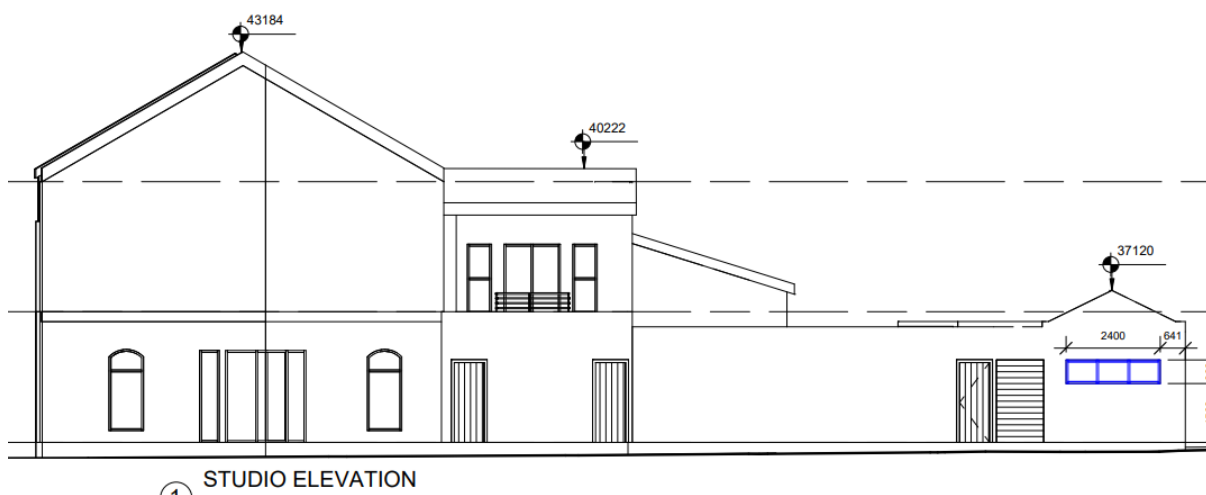


Figure 5: Proposed southern elevation (works indicated in blue)

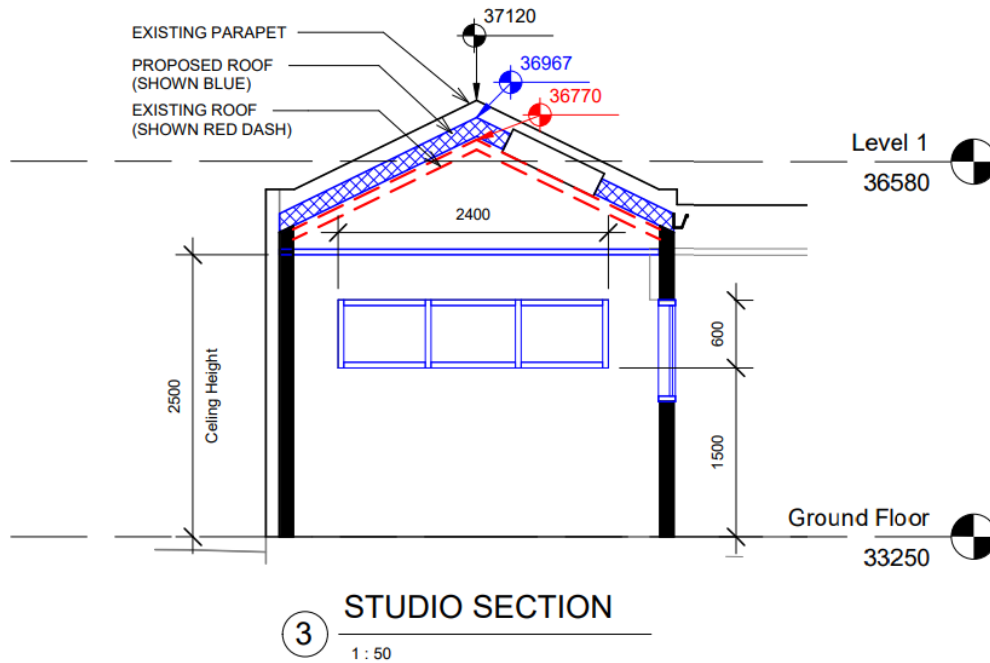


Figure 6: Secondary dwelling section plan

Assessment

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

State Environmental Planning Policies

State Environmental Planning Policy (Housing) 2021

- 15. The aim of SEPP (Housing) 2021 is to provide a consistent planning regime for the provision and maintenance of affordable rental housing and to facilitate the delivery of new affordable rental housing.

Chapter 3 Diverse Housing

Part 1 Secondary dwellings

- 16. Chapter 3 Part 1 of the Housing SEPP is not excluded by Section 1.9 of the Sydney LEP 2012, and therefore applies to the subject site.
- 17. An assessment against the relevant provisions is provided below:

Section	Compliance	Comment
51. Development consent must not be granted for the subdivision of a lot on which	Yes	No subdivision is proposed as part of this application.

Section	Compliance	Comment
development has been carried out under this Part.		
52 Development may be carried out with consent		
(a) no dwellings, other than the principal dwelling and the secondary dwelling, will be located on the land	Yes	The proposal will result in only the principal dwelling and the secondary dwelling on the land.
(b) the total floor area of the principal dwelling and the secondary dwelling is no more than the maximum floor area permitted for a dwelling house on the land under another environmental planning instrument.	Yes	<p>There is no total floor area development standard prescribed under the Housing SEPP or the Sydney LEP 2012.</p> <p>The Sydney Local Environmental Plan 2012 allows for a maximum gross floor area of 198.75 sqm (FSR: 1.25:1) at the site. The gross floor area of the principal dwelling and secondary dwelling and cafe is 177 sqm (1.12:1) which complies with this control.</p> <p>The proposal also complies with Clause 5.4(9) Sydney LEP 2012, refer to discussion below.</p>
(c) the total floor area of the secondary dwelling is— (i) no more than 60 sqm, or (ii) if a greater floor area is permitted for a secondary dwelling on the land under another environmental planning instrument—the greater floor area.	Yes	(c) The total floor area of the secondary dwelling is 18 sqm and complies with clause 5.4(9) a of the Sydney LEP 2012.
53 Non-discretionary development standards - the Act, s 4.15		
2(a) for a detached secondary dwelling—a minimum site area of 450 sqm.	Yes	The proposed secondary dwelling is 'attached' to the primary dwelling.
2(b) the number of parking spaces provided on the site is the same as the number of parking spaces provided on	No - but acceptable	The proposed works include the removal of the existing garage space (1 car park) and alterations to a secondary dwelling.

Section	Compliance	Comment
the site immediately before the development is carried out.		<p>Pursuant to Section 4.15(3)(b) of the EP&A Act, clause 4.6 of the Sydney LEP 2012 can be utilised to provide flexibility in the application of non-discretionary development standards.</p> <p>See 'Discussion' section below.</p>

State Environmental Planning Policy (Sustainable Buildings) 2022

18. The aims of this Policy are as follows -

- (a) to encourage the design and delivery of sustainable buildings,
- (b) to ensure consistent assessment of the sustainability of buildings,
- (c) to record accurate data about the sustainability of buildings, to enable improvements to be monitored,
- (d) to monitor the embodied emissions of materials used in construction of buildings,
- (e) to minimise the consumption of energy,
- (f) to reduce greenhouse gas emissions,
- (g) to minimise the consumption of mains-supplied potable water,
- (h) to ensure good thermal performance of buildings.

Chapter 2 Standards for residential development - BASIX

- 19. A BASIX Certificate has been submitted with the development application Certificate No. 1751110S.
- 20. The BASIX certificate lists measures to satisfy BASIX requirements which have been incorporated in the proposal. A condition of consent is recommended ensuring the measures detailed in the BASIX certificate are implemented.

Local Environmental Plans

Sydney Local Environmental Plan 2012

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

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is in the R1 General Residential zone. The proposed development is defined as a secondary dwelling and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 12m is permitted. A height of 3.7m is proposed. The proposed development complies with the maximum height of buildings development standard.
4.4 Floor space ratio	Yes	A maximum floor space ratio of 1.25:1 or 195 sqm is permitted. A floor space ratio of 1.12:1 or 177 sqm is proposed. The proposed development complies with the maximum floor space ratio development standard.
4.6 Exceptions to development standards	Yes	The proposed development seeks to vary the 'car parking spaces' non-discretionary development standard prescribed under section 53(2)(b) of the Housing SEPP. A Clause 4.6 variation request has been submitted with the application. See further details in the 'Discussion' section below.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.4 Controls relating to miscellaneous permissible uses 9) Secondary dwellings on land other than land in a rural zone if development for the	Yes	The proposed secondary dwelling has a floor space of approximately 18 sqm, which is compliant with the maximum 60 sqm or 30% of the total floor area of the principal dwelling, stipulated by subclause (9)(a).

Provision	Compliance	Comment
<p>purposes of a secondary dwelling is permitted under this Plan on land other than land in a rural zone, the total floor area of the dwelling, excluding any area used for parking, must not exceed whichever of the following is the greater—</p> <p>(a) 60 square metres,</p> <p>(b) 30% of the total floor area of the principal dwelling.</p>		
5.10 Heritage conservation	Yes	<p>The site does not contain a heritage item but is identified as containing a contributing building to the Redfern Estate heritage conservation area (C56).</p> <p>No physical works are proposed to the existing terrace dwelling on the site.</p> <p>The design of the proposed secondary dwelling structure will not have detrimental impact on the heritage significance of the heritage conservation area.</p> <p>Council's Heritage and Urban Design Panel have raised no objection to the proposal, as amended, subject to the imposition of appropriate conditions of consent.</p>
7.15 Flood planning	Yes	<p>The site is identified as being subject to the 5% Annual Exceedance Probability Flood.</p> <p>The application proposes development at or below the flood planning level. A flood report accompanies the application demonstrating that the development can comply with the City's Interim Floodplain Management Policy and satisfies the provisions of the standard.</p> <p>A condition has been recommended to ensure the proposed development complies with the flood planning level.</p>

Part 6 Local provisions – height and floor space

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>(2) In considering whether development to which this Division applies exhibits design excellence, the consent authority must have regard to the following matters—</p> <p>(a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved:</p> <p>The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development along Wells Street.</p> <p>(b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain:</p> <p>The proposed secondary dwelling is located within the existing garage built form and will have no impact on the public domain.</p> <p>(c) whether the proposed development detrimentally impacts on view corridors:</p> <p>The proposed development is located within the existing garage form and will have no impact on view corridors.</p> <p>(d) how the proposed development addresses the following matters—</p> <p>(i) the suitability of the land for development:</p> <p>The proposed secondary dwelling will support diverse housing stock in a well located, highly accessible area. The proposal is located within an established urban area that is connected to all essential utilities and services. The site is proximate to shops, public transport and amenity from Redfern town centre.</p>

Provision	Compliance	Comment
		<p>(ii) the existing and proposed uses and use mix:</p> <p>The proposed development is consistent with the desired future character including the provision of greater housing diversity in areas with good access to public transport and services.</p> <p>(iii) any heritage issues and streetscape constraints:</p> <p>The design of the proposed secondary dwelling structure will not have detrimental impact on the heritage significance of the heritage conservation area. Council's Heritage and Urban Design Panel have raised no objection to the proposal, as amended, subject to the imposition of appropriate conditions of consent.</p> <p>(iv) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers, existing or proposed, on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form:</p> <p>No tower form is proposed.</p> <p>(v) the bulk, massing and modulation of building:</p> <p>The proposed alterations to the existing garage responds satisfactorily to surrounding development in terms of bulk and scale.</p> <p>(vi) street frontage heights:</p> <p>No change to the existing street frontage height is proposed.</p> <p>(vii) environmental impacts, such as sustainable design, overshadowing and solar access, visual and acoustic privacy, noise, wind and reflectivity:</p> <p>The proposed north facing windows and skylight allow adequate solar access to the secondary dwelling. The proposed</p>

Provision	Compliance	Comment
		<p>works are within the existing garage and below the maximum height of the existing parapet. The submitted overshadowing plans show there is no additional overshadowing impacts to the southern neighbour.</p> <p>The external windows are translucent fixed glass highlight windows to maximise visual privacy to the secondary dwelling. The internal facing windows are translucent glass to maximise visual privacy.</p> <p>(viii) the achievement of the principles of ecologically sustainable development:</p> <p>A BASIX Certificate has been submitted with the proposal (Certificate number: 1751110S) which confirms compliance with the water, thermal performance, energy and materials scores.</p> <p>(ix) pedestrian, cycle, vehicular and service access and circulation requirements, including the permeability of any pedestrian network:</p> <p>The proposed secondary dwelling supports diverse building types and scales and maintains the human scale of the laneway network.</p> <p>(x) the impact on, and any proposed improvements to, the public domain:</p> <p>No works are proposed to the public domain.</p> <p>(xi) the impact on any special character area:</p> <p>The site is not located in a special character area.</p> <p>(xii) achieving appropriate interfaces at ground level between the building and the public domain:</p> <p>No works are proposed to the public domain.</p>

Provision	Compliance	Comment
		(xiii) excellence and integration of landscape design: There is currently no landscaping or deep soil provided on site, and this is unchanged.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 1 Car parking ancillary to other development		
7.4 Dwelling houses, attached dwellings and semi-detached dwellings	Yes	The site is located on Category B land, therefore a maximum of two spaces are available for the main dwelling and one space for the secondary dwelling (maximum of three car parking spaces are permitted). The proposed development includes no (0) car parking spaces and complies with the relevant development standards.
Division 3 Affordable housing		
7.13 Contribution for purpose of affordable housing	N/A	The proposed development is not subject to an affordable housing contribution as discussed in the 'Financial Contributions' section below.
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.

Development Control Plans

Sydney Development Control Plan 2012

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

Section 2 – Locality Statements

23. The site is located within the Prince Alfred Park South locality. The proposed development is in keeping with the unique character and the design principles of the locality. The proposed secondary dwelling supports diverse building types and scales and maintains the human scale of the laneway network.

Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.
3.6 Ecologically Sustainable Development	Yes	A BASIX Certificate has been submitted with the proposal (Certificate number: 1751110S) which confirms compliance with the water, thermal performance, energy and materials scores. The proposal satisfies BASIX and environmental requirements. Refer to SEPP (Sustainable Buildings) section above.
3.7 Water and Flood Management	Yes	The site is identified as being on flood prone land. See discussion under clause 7.15 of the Sydney LEP 2012 above.
3.9 Heritage	Yes	As discussed under clause 5.10 of the Sydney LEP 2012 above, the proposal is acceptable from a heritage perspective.
3.14 Waste	Yes	<p>The Operational Waste Management Plan confirms that waste from the food and drink tenancy at the front of the dwelling will be transported by staff and disposed of at the bins facing Wells Street. Bins for the existing dwelling and proposed secondary dwelling are separate and located in the courtyard space.</p> <p>A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>

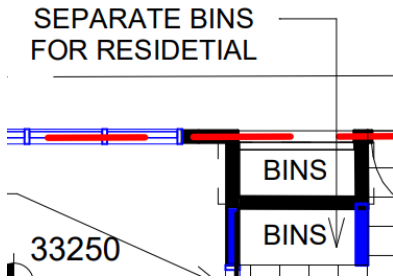
Section 4 – Development Types

4.1 Single Dwellings, Terraces and Dual Occupancies

Provision	Compliance	Comment
4.1.1 Building height	Yes	The site is permitted a maximum building height of two storeys. The proposed development is one storey in height and complies.
4.1.2 Building setbacks	Yes	The proposed development is built within the form of the existing garage and therefore does not alter the existing setback patterns along the street.
<p>4.1.3 Residential amenity</p> <p>As demonstrated below, the proposed development will have acceptable residential amenity and will not have unreasonable impacts on the residential amenity of neighbouring properties.</p>		
4.1.3.1 Solar access	Yes	The proposed north facing windows and skylight allow adequate solar access to the secondary dwelling. The proposed works are within the existing garage and below the maximum height of the existing parapet. The submitted overshadowing plans show there is no additional overshadowing impacts to the southern neighbour. Therefore, solar access to neighbouring sites is maintained as existing.
4.1.3.2 Solar collectors	Yes	There are no solar panels located on the roof of the adjoining property to the south.
4.1.3.3 Landscaping	Yes	No additional landscaping is proposed.
4.1.3.4 Deep soil planting	No	The required minimum amount of deep soil is 15% of site area (23.4 sqm). There is currently no deep soil provided on site, and this is unchanged.
4.1.3.5 Private open space	No	The proposal provides 14.9 sqm of private open space across two courtyard spaces. The minor noncompliance is considered acceptable. The proposed secondary dwelling will share the existing open space with the primary residence. Furthermore, the site is located within close proximity to public

Provision	Compliance	Comment
		open space, namely Redfern Park and Prince Alfred Park.
4.1.3.6 Visual privacy	Yes	The proposed secondary dwelling has windows facing Wells Street and internal windows facing the courtyard. The external windows are translucent fixed glass highlight windows to maximise visual privacy to the secondary dwelling. The internal facing windows are translucent glass to maximise visual privacy.
4.1.6 Secondary and laneway dwellings		
1) A one storey structure with an attic above is permissible adjacent to a rear lane, provided the height does not exceed 5.4m and amenity to adjacent sites is maintained.	Yes	The proposal includes a secondary dwelling to the rear within the existing garage with a total height of 3.7m and will not result in a loss of amenity or solar access to neighbouring properties.
(2) On lots smaller than 150sqm, a secondary dwelling is not permitted unless it can achieve a minimum consolidated area of private open space for the principal dwelling of 16sqm with a minimum dimension of 3m.	No, but acceptable	The lot has an area greater than 150 sqm and provides 14.9 sqm of private open space across two courtyard spaces. Whilst this is a shortfall, the secondary dwelling will share the existing open space with the primary residence and is within close proximity to public open space
(3) The roof pitch of a rear lane building must not exceed 40 degrees.	Yes	The secondary dwelling has a gabled roof with a pitch of 26 degrees and will not result in a loss of amenity or solar access to neighbouring properties.
(4) The secondary dwelling on a lot adjoining a rear lane is to be clearly subservient to the principal dwelling.	Yes	The secondary dwelling is within the existing garage form and subservient to the principal dwelling.
(5) A habitable space may be located below a garage.	N/A	No habitable space below a garage is proposed.

4.2 Residential Flat, Non-Residential and Mixed Use Developments

Provision	Compliance	Comment
4.2.3 Amenity	Yes	As noted above, the secondary dwelling is built within the form of the existing garage and as such does not lead to any changes in the scale of the development or additional overshadowing or amenity impacts.
4.2.6 Waste and recycling management	Yes	<p>This provision requires that waste handling, storage and collection systems for residential and non-residential waste are to be separate and self-contained.</p> <p>The submitted Operational Waste Management Plan and Architectural Plans indicate that residential and commercial waste is separated, with commercial waste facing Wells Street and internal bins for residential dwellings.</p> <p>Refer to extract of architectural plan below.</p> 

Discussion

Clause 4.6 Request to Vary Non-discretionary Development Standard

- 24. The proposed development seeks to vary the non-discretionary development standard prescribed under Clause 53 of the Housing SEPP.
- 25. Clause 53 of the Housing SEPP requires "the number of parking spaces provided on the site is the same as the number of parking spaces provided on the site immediately before the development is carried out".
- 26. The proposal seeks to remove the existing garage space (one car park) and change the use to a secondary dwelling.

27. A written request has been submitted to Council in accordance with Clause 4.6(3)(a) and (b) of the Sydney LEP 2012 seeking to justify the contravention of the development standard by demonstrating:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and
 - (b) That there are sufficient environmental planning grounds to justify contravening the standard;
28. A copy of the applicant's written request is provided at Attachment C.

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

29. The applicant seeks to justify the contravention of the car parking spaces non-discretionary development standard on the following basis:
- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case:
 - The objectives of the relevant planning controls are adequately achieved notwithstanding non-compliance with the numerical control of the standard. There is no underlying purpose or objective of clause 53(2)(b). The Court has held that development standards should be seen as part of the environmental planning instrument (in this case the Housing SEPP) as a whole. The applicant has demonstrated consistency with the aims or principles of the Housing SEPP, as summarised below:
 - The proposed secondary dwelling will support diverse housing stock in a well located, highly accessible area.
 - The proposed secondary dwelling will provide sufficient amenity to future residents at the site. The secondary dwelling will receive ample solar access from the north facing windows.
 - The accompanying BASIX certificate demonstrates compliance with BASIX targets for water, energy and thermal comfort and which applies to this development.
 - The proposed development is located within the existing garage built form and is compatible with the surrounding one and two storey development along Wells Street.
 - The proposal is located within an established urban area that is connected to all essential utilities and services. The site is proximate to shops, public transport and amenity from Redfern town centre.
 - The proposal is consistent with the aims and objectives of the R1 General Residential zone in the Sydney LEP 2012 and the objectives of Section 4.1.6 Secondary and Laneway Dwellings in the Sydney DCP 2012.
 - (b) That there are sufficient environmental planning grounds to justify contravention of the standard:

- The proposed development complies with relevant built form controls including maximum building height and floor space ratio development standards.
- The proposed secondary dwelling sits within the existing garage built form on Wells Street, which is typified by low-scale dwellings with pitched roofs. Therefore the visual impact of the proposed development is minimal.
- The proposed works are within the maximum height of the existing parapet. The submitted overshadowing plans show there is no additional overshadowing impacts to the southern neighbour.
- The proposal has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained.

Consideration of Applicant's Written Request - Clause 4.6 (3)

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

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

31. A summary of the applicant's submission with regard to compliance with the nondiscretionary development standard being unreasonable or unnecessary in the circumstances of the case is provided above. The written request has adequately demonstrated that the objectives of the relevant planning controls are adequately achieved notwithstanding non-compliance with the numerical control of the standard.

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

32. A summary of the applicant's submission with regard to environmental planning grounds to justify contravening the non-discretionary development standard is provided above. The environmental planning grounds established are specific to the circumstances of the site to justify the extent of non-compliance with the minimum site area non-discretionary development standard.
33. The non-compliance will also not result in any unacceptable environmental impacts, such as bulk and scale, overshadowing, traffic and parking or privacy impacts. In this regard, the site is well connected to public transport services, including Redfern Station (within 500 metres walking distance) and bus routes along Chalmers Street, as well as a variety of shops and retail services.
34. The written request has therefore demonstrated that there are sufficient environmental planning grounds to support the extent of variation proposed.

Conclusion

35. For the reasons provided above the requested variation to the 'car parking spaces' non-discretionary standard is supported as the applicant's written request has adequately addressed the matters required to be addressed by cl 4.6 of the Sydney Local Environmental Plan 2012.

Consultation

Internal Referrals

36. The application was discussed with Council's Heritage and Urban Design Unit. The Heritage and Urban Design advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

Advertising and Notification

37. In accordance with the City of Sydney Community Participation Plan 2023, the proposed development was notified for a period of 14 days between 26 June 2024 and 11 July 2024. A total of 159 properties were notified and one submission was received.
38. The submission raised the following issue:
- (a) **Issue:** The raised roof level will have overshadowing impacts to southern neighbouring sites.

Response: The proposed development is within the existing garage structure and the proposed roof is below the maximum height of the existing parapet on the garage. The submitted overshadowing plans show there is no additional overshadowing impacts to the southern neighbour.

Financial Contributions

Contribution under Section 7.11 of the EP&A Act 1979

39. The City of Sydney Development Contributions Plan 2015 applies to the site. The proposed secondary dwelling is subject to a section 7.11 local infrastructure contribution under this Plan as it is considered as a studio/1-bedroom dwelling that results in a net increase in resident population.
40. A condition relating to this local infrastructure contribution has been included in the recommended conditions of consent. 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

41. The site is located within the residual land affordable housing contribution area. As the development is development for the purposes of residential accommodation that will result in the creation of less than 200 square metres of gross floor area, the development is excluded and is not subject to a Clause 7.13 affordable housing contribution.

Housing and Productivity Contribution

42. The development is not subject to a Housing and Productivity Contribution under the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

43. While the site is located with the Greater Sydney region, the development is not a type of residential development to which the Housing and Productivity Contribution applies.

Relevant Legislation

44. Environmental Planning and Assessment Act 1979.

Conclusion

45. The proposed construction of a secondary dwelling is generally consistent with the zone objectives contained in the Sydney LEP 2012.
46. A written request seeking to vary the 'car parking spaces' non-discretionary development standard under section 53(2)(b) of the Housing SEPP was submitted. The proposed request is well founded, and the written request demonstrates that compliance with the non-discretionary development standard is unnecessary and unreasonable in this instance and that there are sufficient environmental planning grounds to justify the variation.
47. The development, as amended and subject to conditions, achieves an acceptable standard of architectural design, materials, and detailing and achieves design excellence.
48. The development is generally consistent with the design requirements of Section 3, Section 4.1 and Section 5.2 of the Sydney DCP 2012.
49. The proposed development is generally consistent with the relevant objectives and provisions of Chapter 3 Part 1 of State Environmental Planning Policy (Housing) 2021.
50. The proposed development is therefore recommended for approval subject to the recommended conditions of consent.

ANDREW THOMAS

Executive Manager Planning and Development

Georgia McKenzie, Senior Planner

Attachment A

Recommended Conditions of Consent
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SCHEDULE 1

CONDITIONS OF CONSENT

Note: Some conditions are to be satisfied prior to issue of a Construction Certificate, some are to be satisfied prior to issue of Occupation Certificate and others during the course of construction.

Prior to the issue of the Construction Certificate, sufficient information must be forwarded to the Principal Certifier (whether Council or a private accredited certifier) illustrating compliance with the relevant requirements of the Building Code of Australia and conditions of consent. If Council is to be the certifying authority, please contact the Building Unit to discuss the requirements prior to submission of the application for construction certificate.

GENERAL CONDITIONS

(1) APPROVED DEVELOPMENT

- (a) Development must be in accordance with Development Application No. D/2024/477 dated 18 June 2024 and the following drawings prepared by NTH Studio:

Drawing Number	Drawing Name	Date
A101 Rev A	Existing Plans	11/06/24
A102 Rev A	Existing & Demolition Plan	11/06/24
A103 Rev A	Proposed Studio	11/06/24
A104 Rev A	Elevation & Section & 3D Plans	11/06/24
A105 Rev B	Additional Sections & Finishes Schedule	15/07/24

and as amended by the conditions of this consent.

- (b) In the event of any inconsistency between the approved plans and supplementary documentation, the drawings will prevail.

Reason

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

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

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

<u>Contribution Category</u>	<u>Amount</u>
Open Space	\$12,542.27
Community Facilities	\$2,497.54
Traffic and Transport	\$3,185.15
Stormwater Drainage	\$1,259.52
Total	\$19,484.49

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

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

Where:

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

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

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

CPI_{consent} = Is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being – 137.7 for March 2024

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.

(3) SECONDARY DWELLINGS ANCILLARY TO PRINCIPAL DWELLING

The secondary dwelling is:

- (a) To be established in conjunction with the principal dwelling contained within the lot; and
- (b) To remain within the same lot as the principal dwelling.

Reason

To restrict the subdivision of the site.

(4) WASTE AND RECYCLING MANAGEMENT - GENERAL

The proposal must comply with the relevant provisions of the Sydney Development Control Plan 2012 and Council's *Guidelines for Waste Management in New Developments 2018*, which requires facilities to promote the safe and efficient storage, separation, collection and handling of waste to maximise resource recovery.

Reason

To ensure that waste and recycling is appropriately managed throughout all phases of the development.

(5) AIR CONDITIONERS GENERALLY

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

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

Reason

To ensure the visual impact of air conditioners is minimised.

DEMOLITION/ BUILDING WORK BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

(6) BASIX CERTIFICATE – DETAILS TO BE LODGED WITH A CC

A copy of the required completed BASIX certificate accepted as part of this Development Consent with respect to the proposed residential building works, must be lodged with an application for a construction certificate and the items nominated as part of the subject BASIX certificate must be specified on the plans submitted with the construction certificate application. – See Note.

IMPORTANT NOTE:

Any requirement detailed in the accompanying BASIX Certificate, **MUST** be included as a specific notation or inclusion on any future Construction Certificate plans and specification in accordance with Part 3 of Schedule 1 of the EP&A Regulation, 2021.

Reason

To ensure BASIX commitments are fulfilled in accordance with the BASIX certificate (prescribed condition under clause 75 EP&A Regulation, 2021).

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(7) FLOOD PLANNING LEVELS

The development must be constructed to comply with the recommended flood planning levels indicated in Section 4.5 of the report titled Flood Study prepared by MBC Engineering dated 2 December 2023.

Details must be submitted to the Registered 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.

(8) 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.

(9) STORMWATER AND DRAINAGE - MINOR DEVELOPMENT

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

Reason

To ensure the drainage system is constructed in accordance with Council's requirements.

(10) SYDNEY WATER CERTIFICATE (TAP-IN)

- a) The approved plans must be submitted to Sydney Water's "Tap-in" online service to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Sydney Water's "Tap-in" online service is available at www.sydneywater.com.au, (see Plumbing, Building & Development and then Sydney Water "Tap-in").
- b) The Consent Authority or a Principal Certifier must ensure that Sydney Water has appropriately stamped the plans before the commencement of work.

Reason

To ensure the development satisfies Sydney Waters requirements.

DURING DEMOLITION/ BUILDING WORK

(11) HOURS OF WORK AND NOISE – OUTSIDE CBD

The hours of construction and work on the development must be as follows:

- (a) All work, including building/demolition and excavation work, and activities in the vicinity of the site generating noise associated with preparation for the commencement of work (eg. loading and unloading of goods, transferring of tools etc) in connection with the proposed development must only be carried out between the hours of 7.30am and 5.30pm on Mondays to Fridays, inclusive, and 7.30am and 3.30pm on Saturdays, with safety inspections being permitted at 7.00am on work days, and no work must be carried out on Sundays or public holidays.
- (b) All work, including demolition, excavation and building work must comply with the City of Sydney Code of Practice for Construction Hours/Noise 1992 and Australian Standard 2436 - 2010 Guide to Noise Control on Construction, Maintenance and Demolition Sites.
- (c) Notwithstanding the above, the use of a crane for special operations, including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on-site tower cranes which warrant the on-street use of mobile cranes outside of above hours can occur, subject to a separate application being submitted to and approved by Council under Section 68 of the Local Government Act 1993 and Sections 138/139 of the Roads Act 1993.

Note: Works may be undertaken outside of hours, where it is required to avoid the loss of life, damage to property, to prevent environmental harm and/or to avoid structural damage to the building. Written approval must be given by the Construction Regulation Team, prior to works proceeding.

The *City of Sydney Code of Practice for Construction Hours/Noise 1992* allows extended working hours subject to the approval of an application in accordance with the Code and under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

Reason

To protect the amenity of the surrounding area.

(12) EROSION AND SEDIMENT CONTROL - LESS THAN 250SQM

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

Reason

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

(13) LOADING AND UNLOADING DURING CONSTRUCTION

The following requirements apply:

- (a)
- (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.

(14) 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.

(15) 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.

(16) 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.

OCCUPATION AND ONGOING USE

(17) 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.

(18) NOTICE OF MODIFICATION – DELETION OF CONDITION 11 DU/2003/213

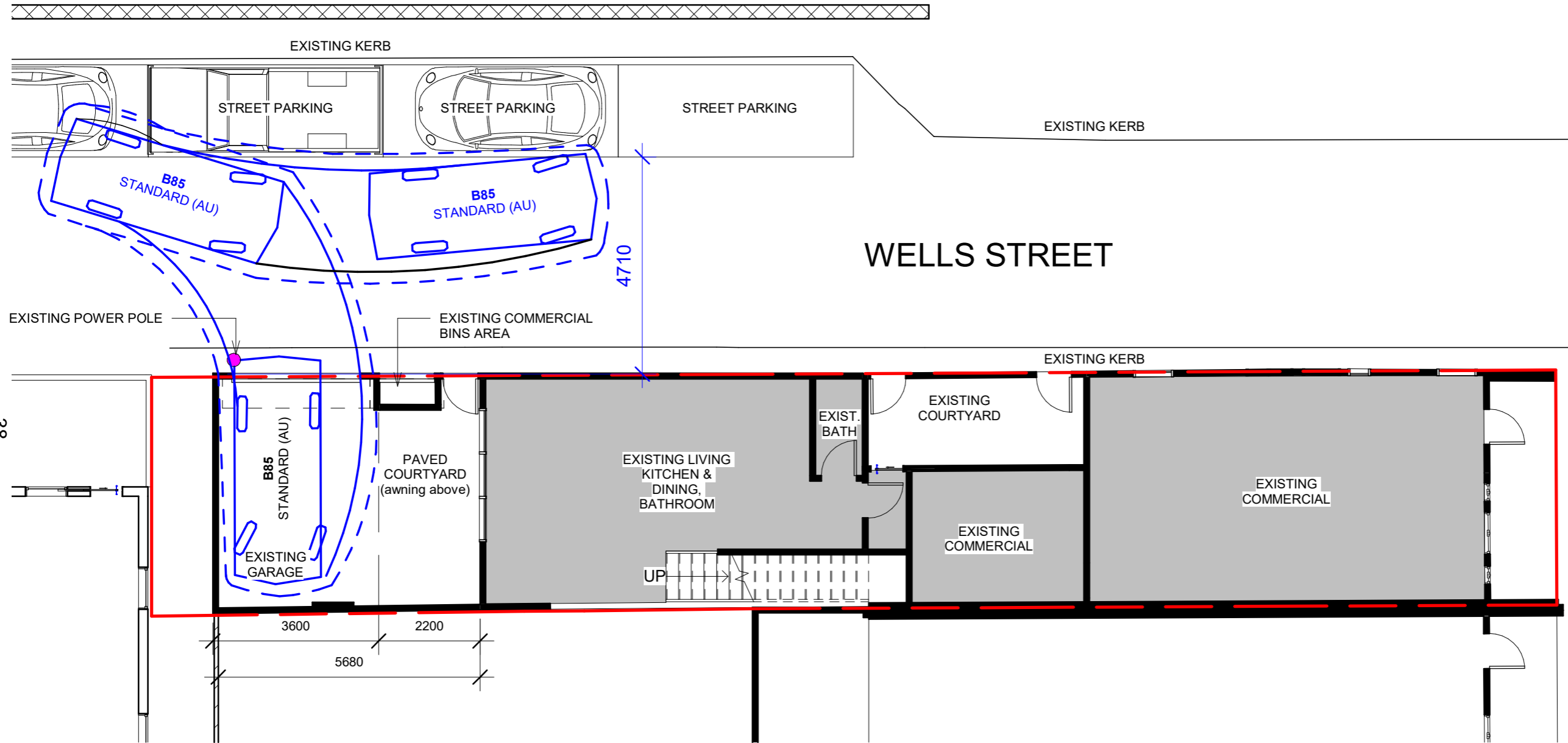
A notice of modification to delete condition 11 of DU/2003/213 pursuant to section 4.17(b) and (c) of the Environmental Planning and Assessment Act, 1979 must be submitted to Council's Area Planning Manager for approval, prior to the release of the Occupation Certificate.

Reason

Compliance with the Environmental Planning and Assessment Act 1979.

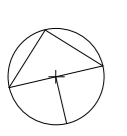
Attachment B

Selected Drawings



1 Existing Ground Floor
1 : 100

EXISTING GROUND FLOOR AREA: 89m²



NTH STUDIO
Registered Architect NSW 12318
T: 0425 118 868

DATE: 29/04/24
DRAWN: NTH
SCALE: 1 : 100 @A3

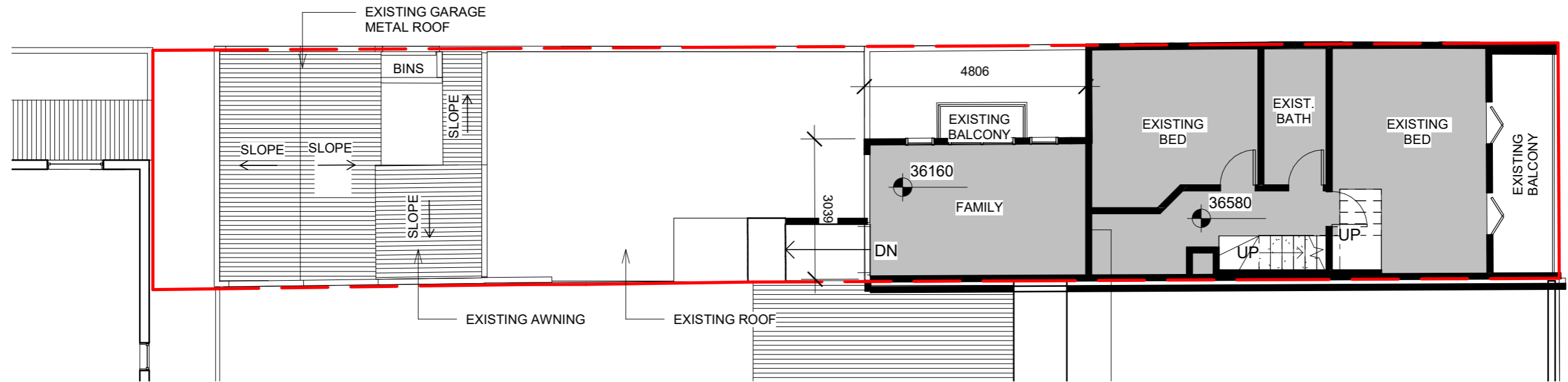
PROJECT NO.: 2325
STATUS: DA
DWG NO.: A101
REVISION: A

PROJECT AND ADDRESS
231 CHALMERS ST REDFERN

DRAWING
EXISTING PLANS

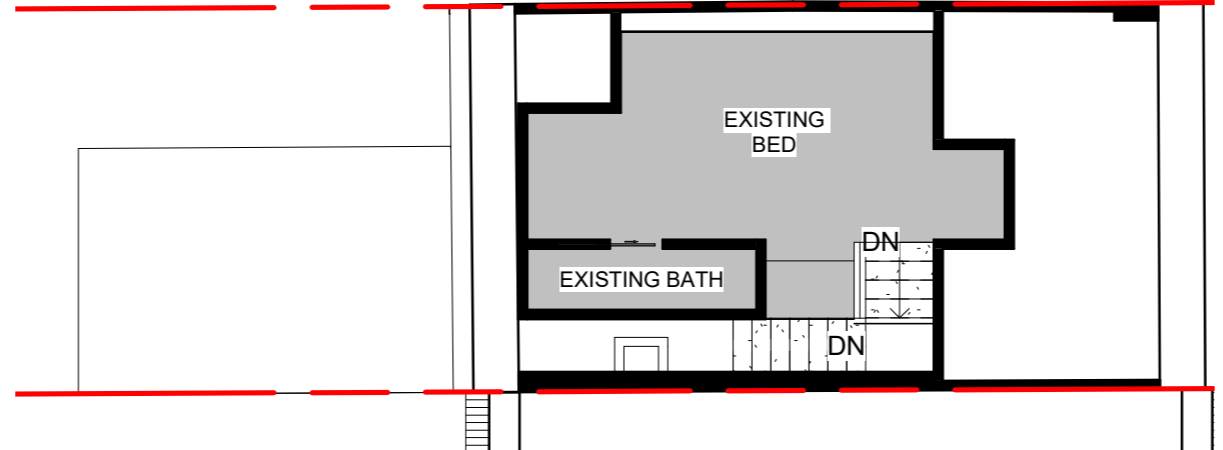
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No.	Description	Date
A	DA APPROVAL	11/06/24



1 Existing Level 1
1 : 100

EXISTING L1 AREA: 51m²



2 Existing Attic
1 : 100

EXISTING ATTIC AREA: 19 m²

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T: 0425 118 868

DATE: 05/28/24
DRAWN: Author
SCALE: 1 : 100 @A3

PROJECT NO.: 2325
STATUS: DA

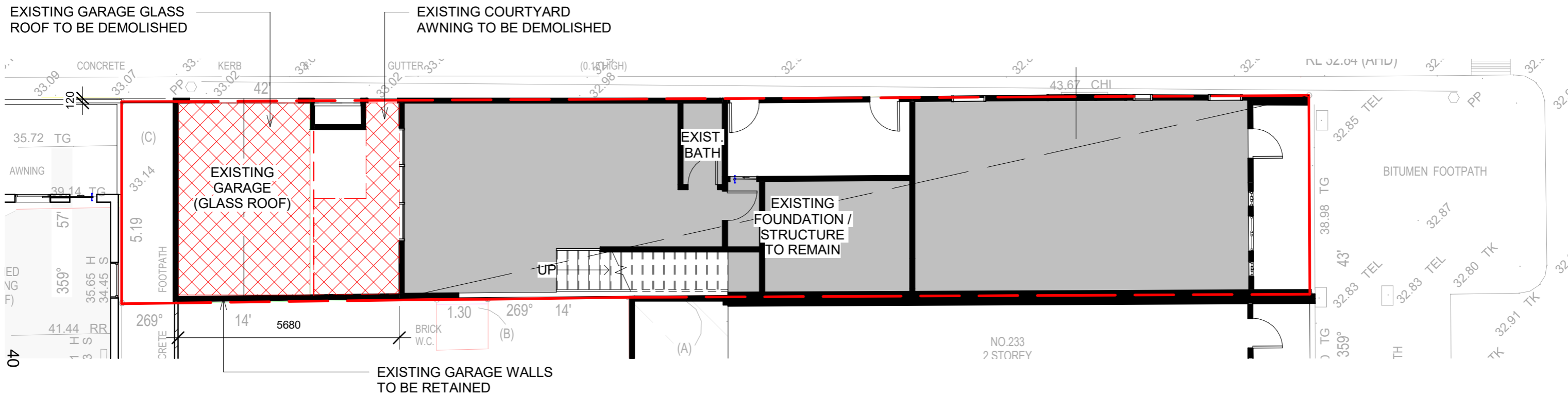
DWG NO.: A101A
REVISION: Designer

PROJECT AND ADDRESS
231 CHALMERS ST REDFERN

DRAWING
EXISTING L1 & ATTIC

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No.	Description	Date

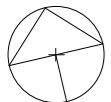


Existing & Demolition Plan_Ground Floor

1

1 : 100

LEGEND	
	EXISTING
	DEMOLITION
	NEW WORKS
	BOUNDARY



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DATE: 29/04/24
DRAWN: NTH
SCALE: As indicated @A3

PROJECT NO.: 2325
STATUS: DA

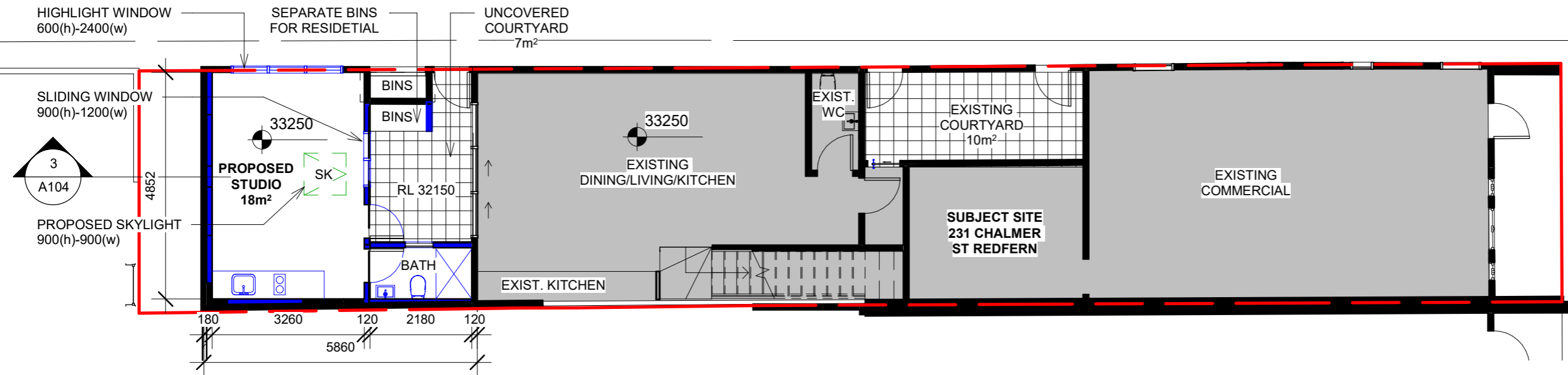
DWG NO.: A102
REVISION: A

PROJECT AND ADDRESS
231 CHALMERS ST REDFERN

DRAWING
EXISTING & DEMOLITION PLAN

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No.	Description	Date
A	DA APPROVAL	11/06/24

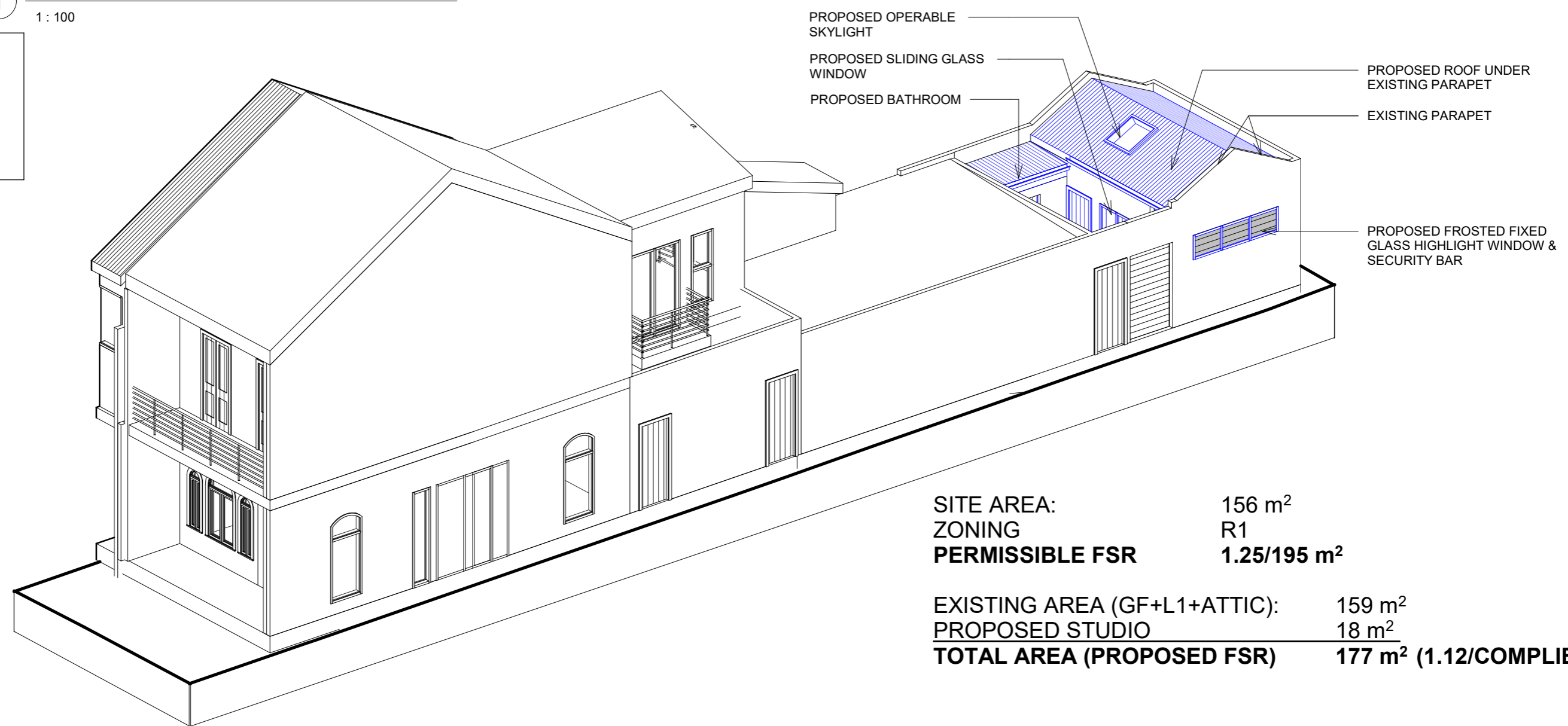


Ground Floor_PROPOSED STUDIO

1
1 : 100

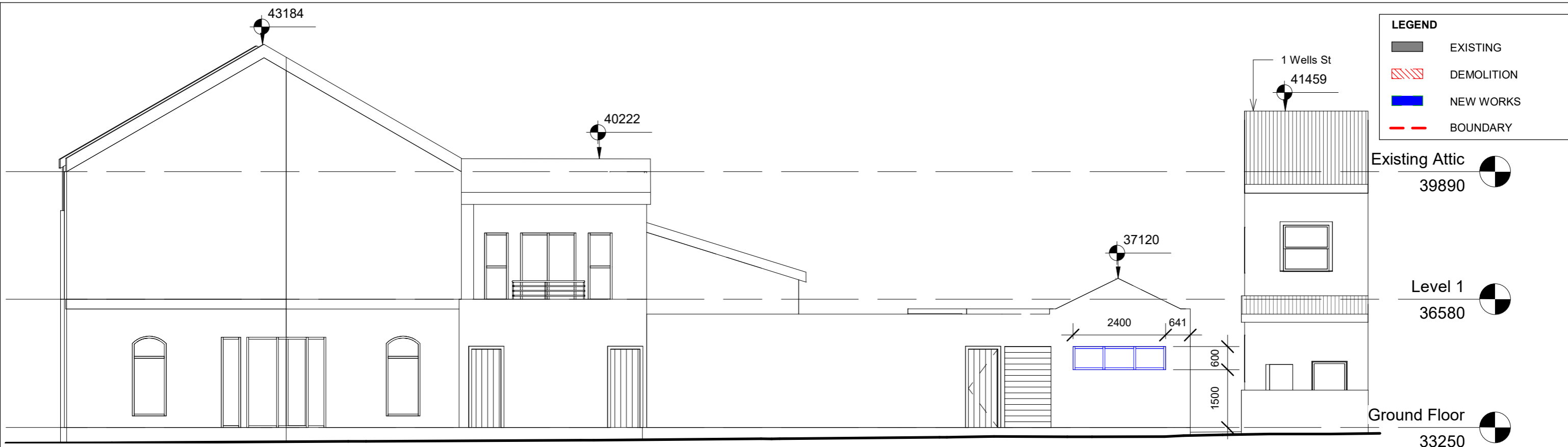
LEGEND

- EXISTING
- DEMOLITION
- NEW WORKS
- BOUNDARY



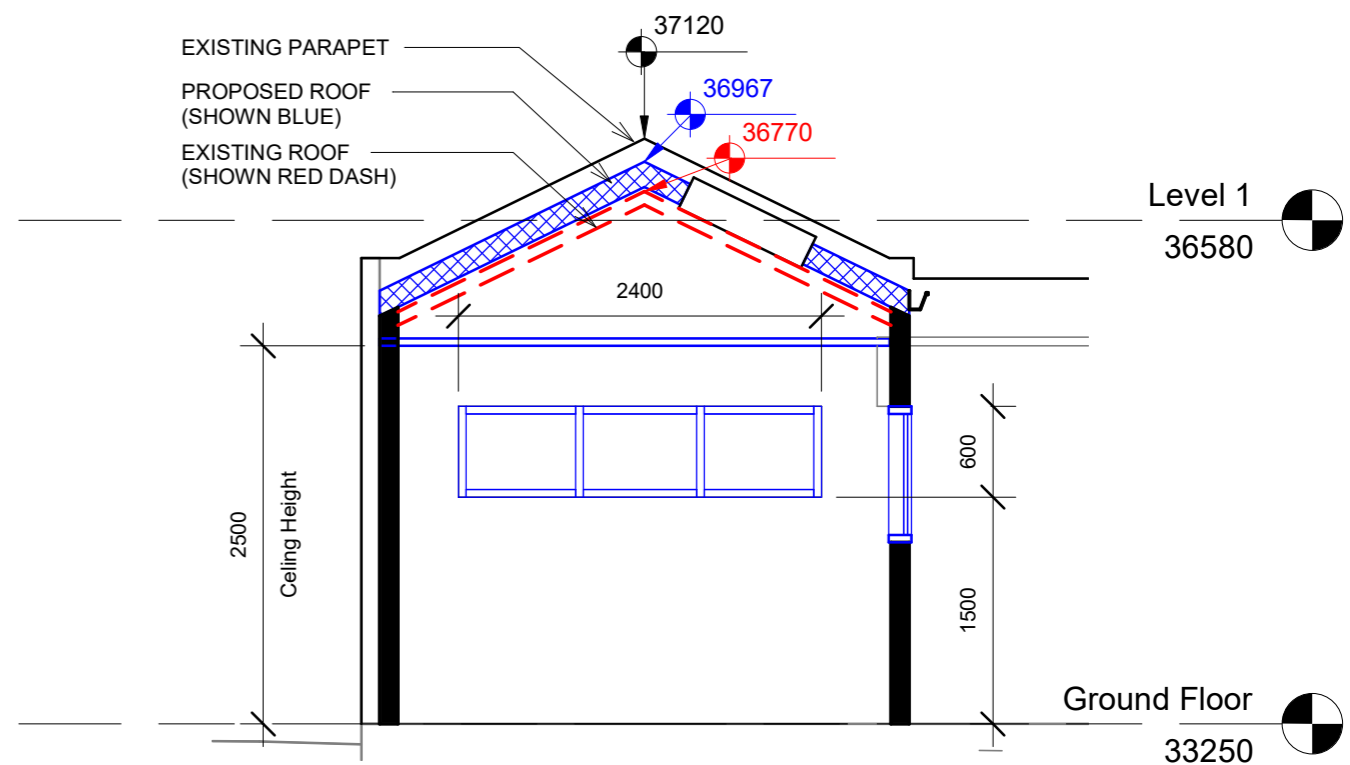
SITE AREA:	156 m²
ZONING	R1
PERMISSIBLE FSR	1.25/195 m²
EXISTING AREA (GF+L1+ATTIC):	159 m²
PROPOSED STUDIO	18 m²
TOTAL AREA (PROPOSED FSR)	177 m² (1.12/COMPLIES)

	NTH STUDIO															
	Registered Architect NSW 12318 T: 0425 118 868	PROJECT NO. 2325	DWG NO. A103	PROJECT AND ADDRESS 231 CHALMERS ST REDFERN	Do not scale this drawing. Verify all dimensions on site before commencing any work. Copyright This drawing remains the property of NTHSTUDIO. Reproduction in whole or in part forbidden											
DATE 29/04/24	DRAWN NTH	SCALE As indicated @A3	DRAWING PROPOSED STUDIO	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">No.</th> <th style="width: 85%;">Description</th> <th style="width: 10%;">Date</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>DA APPROVAL</td> <td>11/06/24</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>		No.	Description	Date	A	DA APPROVAL	11/06/24					
No.	Description	Date														
A	DA APPROVAL	11/06/24														



1 STUDIO ELEVATION
1 : 100

42



3 STUDIO SECTION
1 : 50

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DATE: 29/04/24
DRAWN: NTH
SCALE: As indicated @A3

PROJECT NO. 2325
STATUS DA

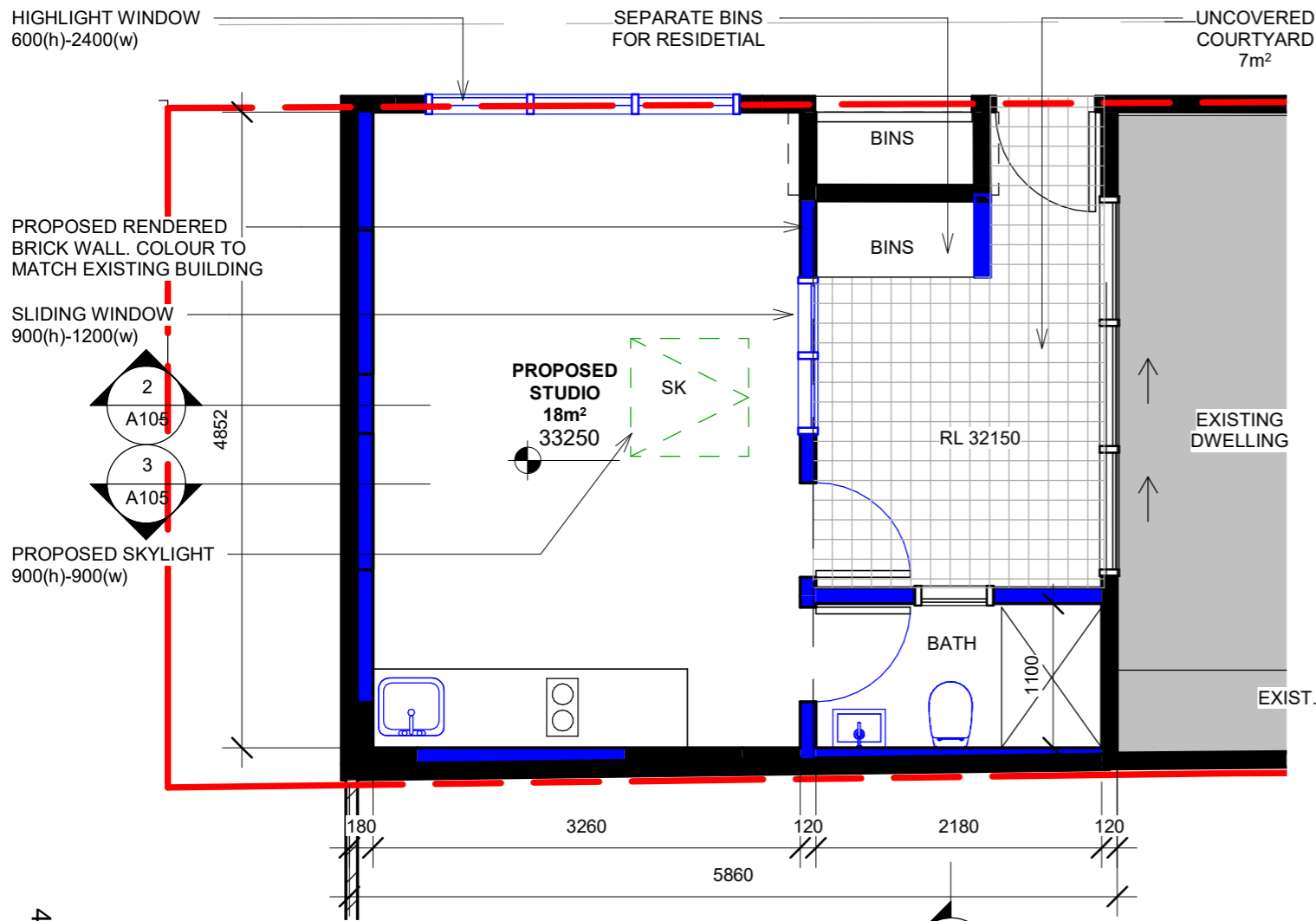
DWG NO. A104
REVISION. A

PROJECT AND ADDRESS
231 CHALMERS ST REDFERN

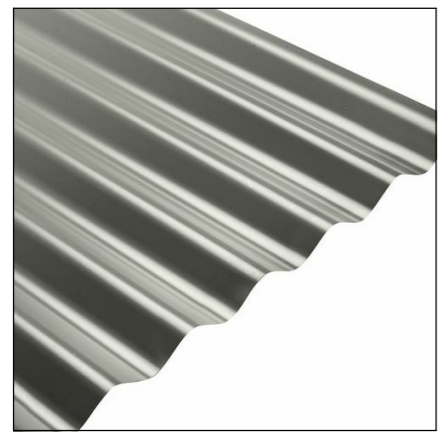
DRAWING
ELEVATION & SECTION & 3D PLANS

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No.	Description	Date
A	DA APPROVAL	11/06/24



1 Ground Floor - PROPOSED STUDIO
1 : 50



PROPOSED CORRUGATED ROOF
COLOUR: Woodland Grey



PROPOSED BATHROOM WINDOW & STUDIO WINDOW (HIGHLIGHT)
MATERIAL: translucent glass

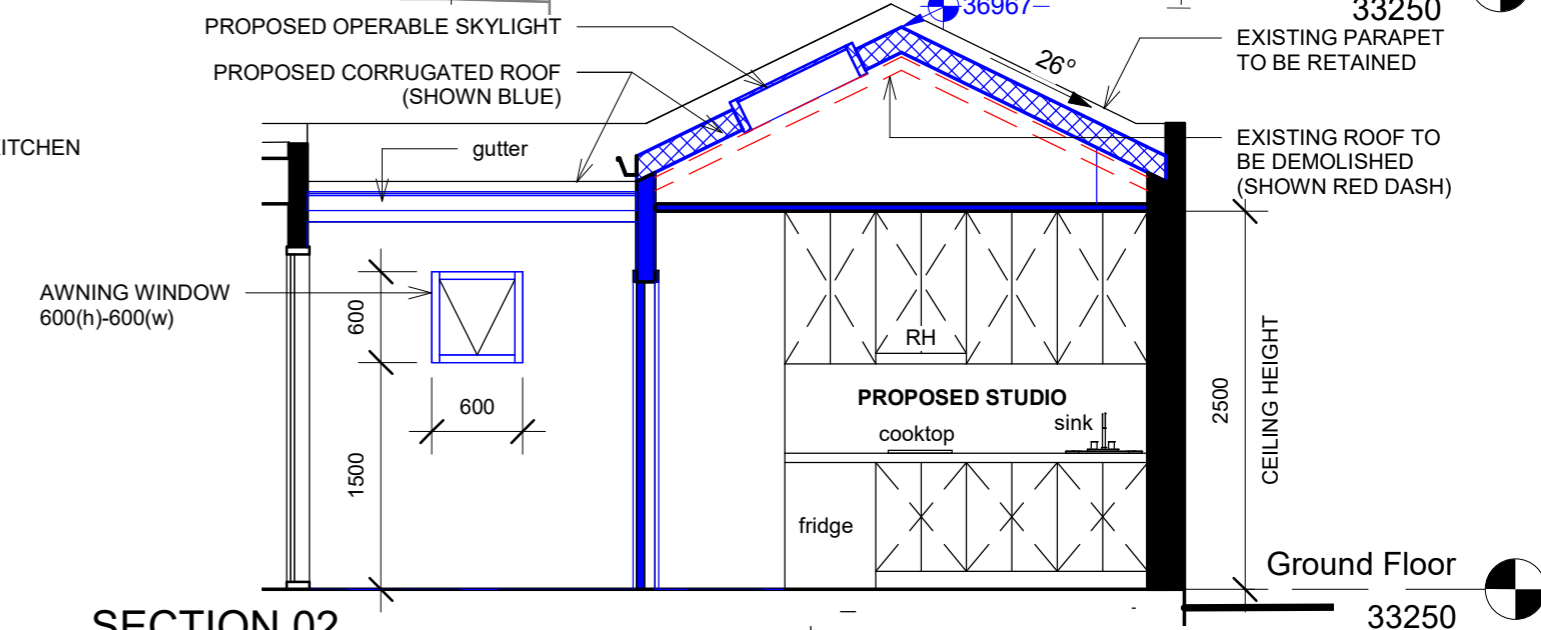
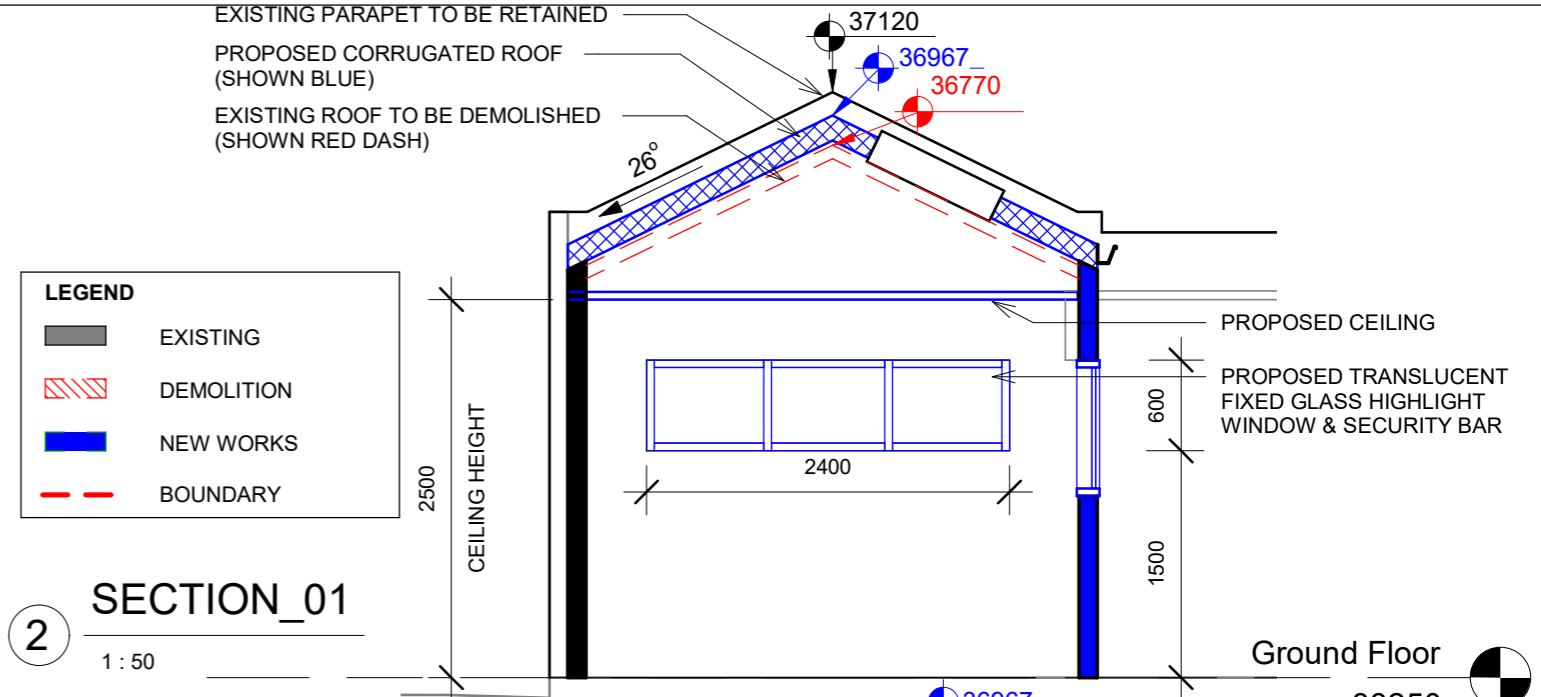


PROPOSED STUDIO WINDOW (SLIDING)
MATERIAL: clear glass

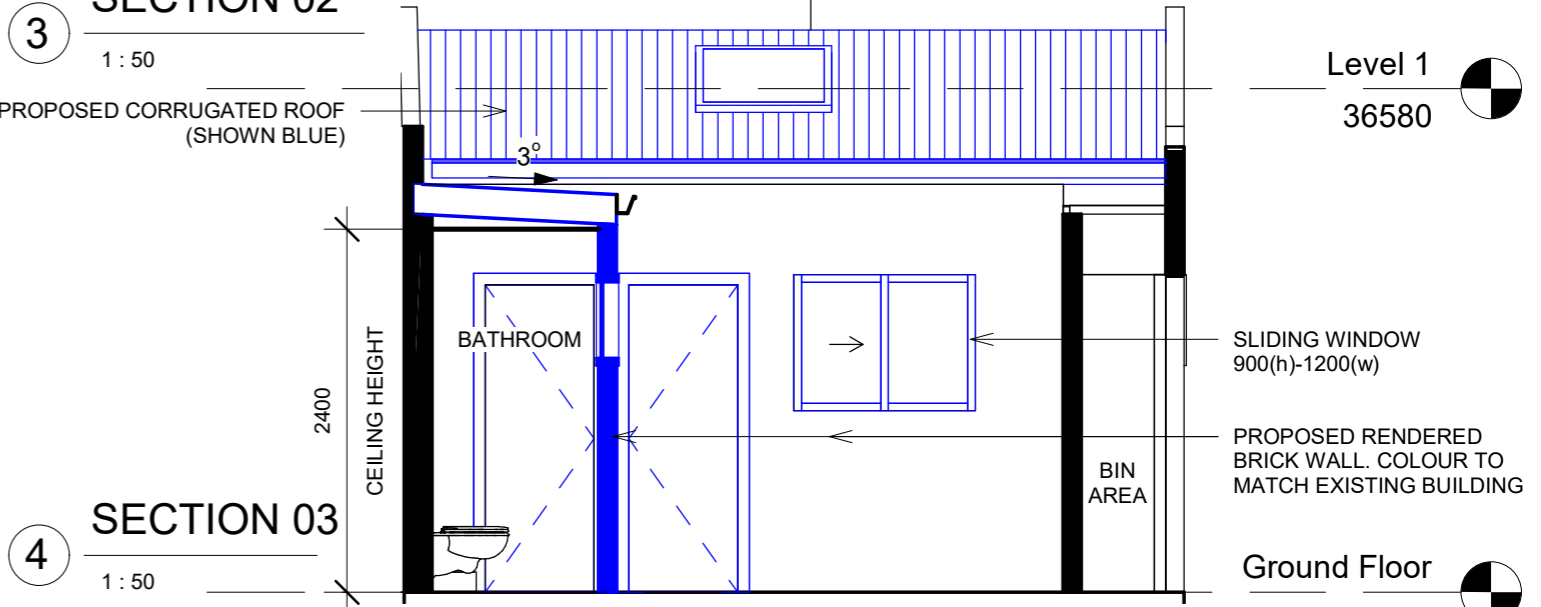
LEGEND

- EXISTING
- DEMOLITION
- NEW WORKS
- BOUNDARY

2 SECTION_01
1 : 50



3 SECTION_02
1 : 50



4 SECTION_03
1 : 50

43

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PROJECT NO. 2325
STATUS DA

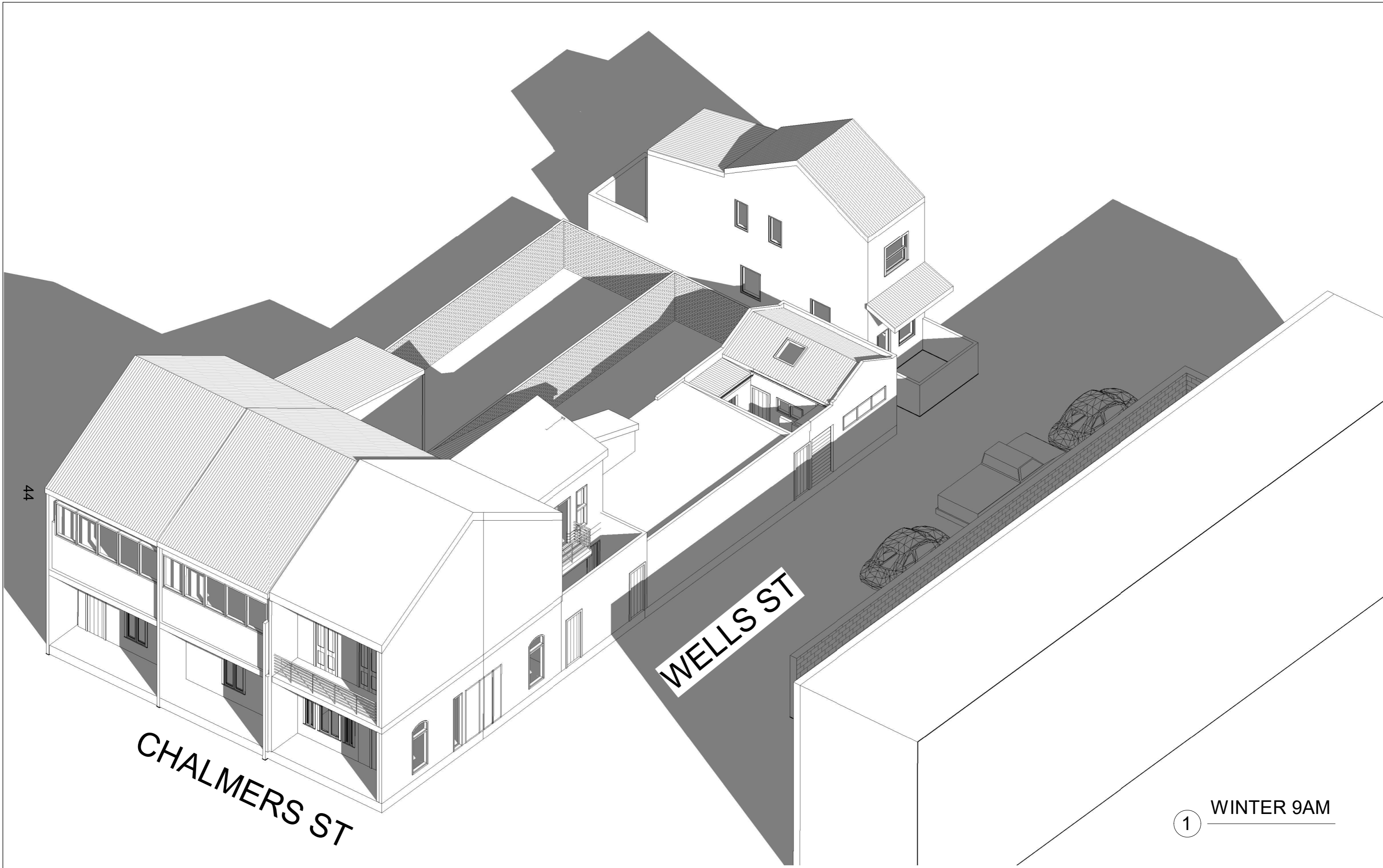
DWG NO. A105
REVISION B

PROJECT AND ADDRESS
231 CHALMERS ST REDFERN

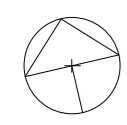
DRAWING
ADDITIONAL SECTIONS & FINISHES
SCHEDULE

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No.	Description	Date
B	DA APPROVAL	15/07/24



① WINTER 9AM



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DATE: 29/04/24
DRAWN: NTH
SCALE: @A3

PROJECT NO.: 2325
STATUS: DA

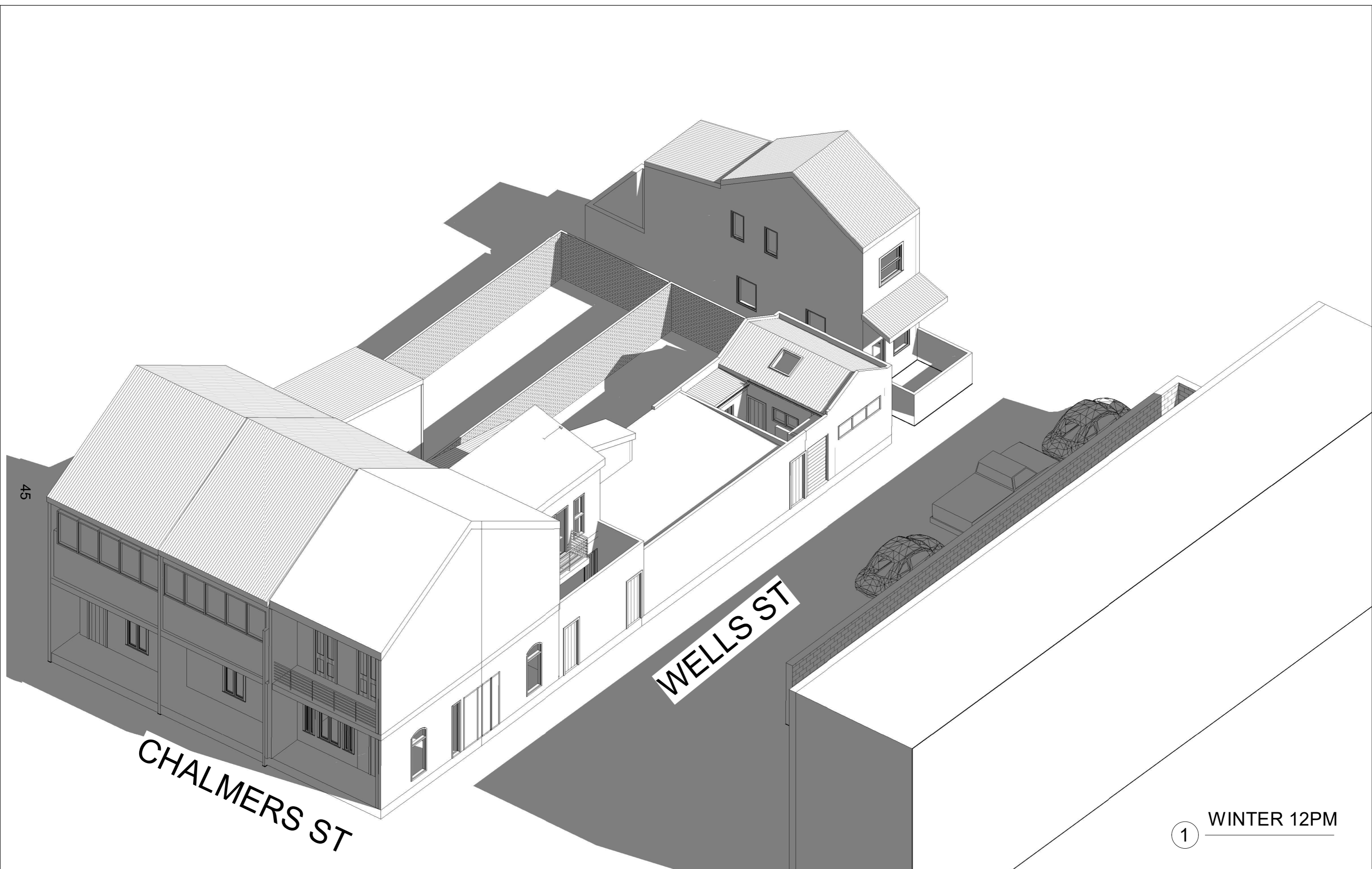
DWG NO.: A105
REVISION: A

PROJECT AND ADDRESS
231 CHALMERS ST REDFERN

DRAWING
SHADOW DIAGRAMS-WINTER 9AM

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No.	Description	Date
A	DA APPROVAL	29/04/24



1 WINTER 12PM

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PROJECT NO.

2325

STATUS

DA

DWG NO.

A108

REVISION.

A

PROJECT AND ADDRESS
231 CHALMERS ST REDFERN

DRAWING
SHADOW DIAGRAMS-WINTER 12PM

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No.	Description	Date
A	DA APPROVAL	29/04/24

+

DATE
29/04/24

DRAWN
NTH

SCALE
@A3



WINTER 3PM

1

NTH STUDIO

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T: 0425 118 868

PROJECT NO.

2325

STATUS

DA

DWG NO.

A111

REVISION.

A

PROJECT AND ADDRESS
231 CHALMERS ST REDFERN

DRAWING
SHADOW DIAGRAMS-WINTER 3PM

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No.	Description	Date
A	DA APPROVAL	29/04/24

Attachment C

Clause 4.6 Variation Request – Car Parking



231 Chalmers Street, Redfern

REQUEST FOR VARIATION TO PARKING DEVELOPMENT STANDARD FOR SECONDARY DWELLINGS PURSUANT TO CLAUSE 53(2)(b) OF STATE ENVIRONMENTAL PLANNING POLICY (HOUSING) 2021

This Clause 4.6 variation relates to a proposal for alterations and additions to the existing dwelling and secondary dwelling at 231 Chalmers Street, Redfern.

The proposal results in a non-compliance with clause 53(2)(b) of the *State Environmental Planning Policy (Housing) 2021* (Housing SEPP) which relates to parking for secondary dwellings. As such, this Clause 4.6 request has been prepared in accordance with Clause 4.6 of the Sydney Local Environmental Plan 2012 (SLEP) which applies to the subject site.

The request demonstrates that compliance with the development standard relating to parking for secondary dwellings is unreasonable or unnecessary in the circumstances of the case and establishes that there are sufficient environmental planning grounds to justify contravening the development standard, satisfying clause 4.6(3) of the SLEP.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development will be consistent with the objectives of the Housing SEPP, noting that there are no objectives for the specific development standard.

The nature of the exceedance to the development standard relating to parking is set out below, followed by consideration of the relevant matters in clause 4.6 of the SLEP.

The NSW Department of Planning, Industry and Environment (DPI&E) provides guidance on how to prepare Clause 4.6 variations; 'Varying development standards: A Guide' (August 2011). This written request to vary the standards is based on the Guide.

Zoning of the site

The zoning of the land is R1 – Low Density Residential. The objectives of the R2 zone are:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To maintain the existing land use pattern of predominantly residential uses.*

Clause 53(2)(b) – Parking for secondary dwellings

The Standard

Clause 53 of the Housing SEPP sets non-discretionary development standards for matters relating to the development of secondary dwellings. The development standards require that

- (2)(a) A site on which a detached secondary dwelling is proposed must have an area greater than 450m² and*
- (2)(b) That the number of parking spaces on site be the same as that number immediately before the development is carried out.*

The site has an area of 156m². The proposal is compliant with clause 53(2)(a) of the Housing SEPP as the proposed secondary dwelling is attached to main dwelling.

However, the proposal includes the removal of a parking space at the rear the site, reducing the total number of car parking spaces up from one to no spaces. As such, the proposal varies the development standard for secondary dwelling parking at clause 53(2)(b) of the Housing SEPP.

The objectives of Clause 53

There are no objectives relating to the subject non-discretionary development standard. An assessment with respect to the principles of the Housing SEPP is provided below. These principles are:

- (a) enabling the development of diverse housing types, including purpose-built rental housing,*

- (b) *encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,*
- (c) *ensuring new housing development provides residents with a reasonable level of amenity,*
- (d) *promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,*
- (e) *minimising adverse climate and environmental impacts of new housing development,*
- (f) *reinforcing the importance of designing housing in a way that reflects and enhances its locality,*
- (g) *supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,*
- (h) *mitigating the loss of existing affordable rental housing.*

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the SLEP allows for exceptions to Development Standards. The objectives of this Clause 4.6 are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6 of the SLEP allows for exceptions of Development Standards. The objectives of this Clause 4.6 are:

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(2) provides the power for development consent to be granted even though the development would contravene a development standard, subject to that clause:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a*
-

development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

We note that clause 4.6(2) allows for variations to development standards in the SLEP as well as *any other environmental planning instrument*, which includes the Housing SEPP.

Clause 4.6(3) sets out what a clause 4.6 written request seeking to justify a contravention of a development standard must demonstrate in order for consent to be granted for development that contravenes a development standard:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*
 - (a) *compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *there are sufficient environmental planning grounds to justify contravening the development standard.*

The matters required to be demonstrated under clause 4.6(3) are set out below as Points 1 and 2.

Clause 4.6(4) requires that Council keep a record of its assessment carried out under Clause 4.6(3).

1. Clause 4.6(3)(a) - Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case:

In order to assess whether strict compliance with the development standard is unreasonable or unnecessary, a proposal is considered against the following five ways¹:

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;

¹ see *Wehbe v Pittwater Council* [2007] NSWLEC 827

3. The underlying objective or purpose 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 own actions in granting consents departing from the standard; or
5. The zoning of particular land was unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to the land.

These five ways were re-emphasised by the Court². Each 'test' offers a potential way of demonstrating that compliance is unnecessary or unreasonable in a particular circumstance³. All tests are separate and not all tests may not be applicable in each case. Therefore, not all tests need to be met.

This objection relies on the first method set out above, that compliance with a standard is unreasonable and unnecessary given that the objectives of the standard are met even though the standard is not complied with⁴.

This object identifies the standard at clause 53(2)(b) of the Housing SEPP as a development standard, which makes it amenable to clause 4.6(2) of the SLEP⁵. However, it does not outline the underlying purpose or objectives of the standard.

The Court has held that development standards should be seen as part of the environmental planning instrument (in this case the Housing SEPP) as a whole⁶. When viewed in this way, and in the absence of specific objectives for the standard, it is appropriate to consider the proposal against the aims or principles of the Housing SEPP.⁷

The eight principles of the Housing SEPP are listed at clause 3 of the policy and the proposal is assessed against them in turn below.

Principle (a) Enabling the development of diverse housing types, including purpose-built rental housing

² *Micaul Holdings Pty Limited v Randwick City Council* [2015] NSWLEC 1386

³ *Mecone Pty Limited v Waverley Council* [2015] NSWLEC 1312

⁴ *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 and *Al Maha Pty Ltd v Huajun Investments Pty Ltd* [2018] NSWCA 245

⁵ See *Principal Healthcare Finance Pty Ltd v Council of the City of Ryde* [2016] NSWLEC 153

⁶ *Strathfield Municipal Council v Poynting* [2001] NSWCA 270 at [94].

⁷ *Principal Healthcare Finance Pty Ltd v Council of the City of Ryde* [2016] NSWLEC 153 at [49]

Comment:

The proposal is for the development of a diverse housing typology as it relates to alterations and additions to an existing garage to create a secondary dwelling. The development of secondary dwellings is controlled by Chapter 3 Housing SEPP which sets provisions for diverse housing, *ergo* identifying such developments as a diverse housing type. Accordingly, the proposal meets objective (a).

Principle (b) encouraging the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability,

Comment:

The works will result in a new dwelling capable of being occupied by vulnerable members of the community.

The secondary dwelling is directly accessible from the Wells Street at ground level and does not include stairs. This makes the dwelling liveable for less mobile or senior members of the community.

In addition, the removal of a parking does not reduce the liveability of the dwelling for persons with mobility issues, given the sites excellent accessibility to shops, services and public transportation.

Finally, the works to the secondary dwelling will result in a new, liveable dwelling that could potentially be leased low to moderate income residents of the area and could assist with placing downward pressure on rents in Redfern.

Principle (c) ensuring new housing development provides residents with a reasonable level of amenity,

Comment:

The proposal provides excellent internal amenity without detracting from that of neighbouring sites.

Firstly, the ground floor, stair free design of the proposal ensures accessibility of the secondary dwelling.

Solar access is provided to the secondary dwelling, by providing new north-facing windows able to catch sunlight at midwinter. As shown in the accompanying shadow diagrams this is not at the expense of solar access to

adjacent properties, which retain a level of sunlight to the windows and private open spaces that is identical to the existing situation.

There are no known views that are affected by the proposal, and low and compliant height of the secondary dwelling will ensure that incidental views are unaffected.

The secondary dwelling is a low scale residential development that is unlikely to generate much in the way of noise or disturbance. The proposal meets the DCP requirements for setbacks.

Windows are either highlight windows or have translucent glazing to ensure visual privacy between sites and from the public domain.

Finally, the design of the garage and secondary dwelling sits comfortably on Wells Street, which is typified by low-scale dwellings with pitched roofs. As such, the visual impact of the proposal is minimal.

Principle (d) promoting the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services,

Comment:

The proposal is located within an established urban area that is already connected to all essential utilities and services, including electricity, sewage, water and telecommunication services. The site is proximate to shops services and eateries on Redfern Street. The proposal will not have any major effects on traffic or parking in the locality, especially considering that the proposal removes parking

The site has excellent access to public transport, with regular services on bus routes 320, 343, 355, 308, 310 to the City, Bondi Junction, Zetland, Kingsford, Rosebery, Marrickville, Gore Hill and Botany easily accessible from the site. Moreover, the site is close to Redfern and Central Railway Stations as well as the under construction Waterloo Metro Station.

It is also noted that the existing garage is not suitable for parking, given the narrow width of Wells Street and the location of a pole. Swept paths have been provided demonstrating its unsuitability.

Principle (e) minimising adverse climate and environmental impacts of new housing development,

Comment:

The DA is accompanied by a BASIX certificate, demonstrating compliance with BASIX targets for Water, Energy and Thermal Comfort and which applies to this development. As such, the proposal will not give rise to adverse climatic or environmental impacts.

Principle (f) reinforcing the importance of designing housing in a way that reflects and enhances its locality,

Comment:

The secondary dwelling and garage sits comfortably in its context, matching similar low scale residential developments facing Wells Street. Wells Lane is typified by garages and low-scale dwellings built to and directly accessed from the laneway. The proposed development mirrors this surrounding development and when viewed by a passer-by on Wells Street, will appear entirely in character with its context. The removal of parking will not affect this context.

Principle (g) supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use,

Comment:

In the long term, the secondary dwelling is capable of supporting short-term rental accommodation as a home-sharing activity and contributor to local economies, with limited social and environmental impacts from this use,

Principle (h) mitigating the loss of existing affordable rental housing.

Comment:

The proposal adds to, rather than reduces the stock of potential rental accommodation in Redfern.

2. Clause 4.6(3)(b) - There are sufficient environmental planning grounds to justify contravening the development standard:

The proposal results in the removal of one space on the site, one less than currently exists and thus varies the development standard in Clause 53(2)(b) of the Housing SEPP

In addition to the consistency of the proposal against the principles of the Housing SEPP (see **Point 2 above**), in my opinion there are sufficient

environmental planning grounds to justify contravening the development standard⁸. These are detailed below.

1. The proposal is otherwise for a development that meets the controls in the SLEP, SDCP and Housing SEPP

- The proposal is for a permissible use within the site's R1 General Residential and complies with all SLEP development standards, including for height and floor space ratio;
- The works align with the SDCP controls, including those for setbacks, private open space, wall height and amenity. The works have been assessed by an experienced heritage advisor and found to have nil impacts upon the Redfern Estate Heritage Conservation Area. Notably, the removal of an existing car space will remain in line with the maximum rate of parking for residential development;
- Notwithstanding control 53(2)(b), the proposal meets all the standards for secondary dwellings in the Housing SEPP, including for floor area, number of dwellings on site and lot size;

2. There is an absence of any material impacts caused by the development.

- The removal of a parking space will not result in unreasonable environmental amenity impacts as follows:
 - The proposal will not result in the loss of views from surrounding development given that no known views are found in the area and the proposal complies with requirements for height and setbacks;
 - The proposal will not result in unreasonable overshadowing of adjoining properties as the level of solar access to adjacent sites is retained as existing;
 - The proposal will provide a development, which has been designed to ensure that the visual and acoustic privacy of adjoining properties is maintained; and
 - The proposal will provide a development, which is consistent with the scale of the adjoining developments and is of an appropriate visual bulk for the locality;

⁸ see *SJD DB2 Pty Ltd v Woollahra Municipal Council* [2020] NSWLEC 1112 at [90]

- The lack of impact on adjoining properties in terms of solar access, privacy, view loss and visual bulk establishes sufficient planning grounds⁹.

3. The proposal is compatible with its surrounding streetscape

- The proposed parking and secondary dwelling is compatible with surrounding development as it meets the test set in *Project Venture Developments v Pittwater Council [2005] NSWLEC 191*.¹⁰
- The proposal meets the first test as it will not lead to any material impacts on the amenity of surrounding sites (see above) and does not constrain the future redevelopment of surrounding sites¹¹;
- The proposal meets the second test as it provides height, setbacks and landscaping that are compliant and consistent with surrounding development¹²;
- To a casual observer, the proposed form will appear consistent with the character surrounding development facing Bourke Lane, which is predominately made up of garages and low-scale residential development.

4. The existing parking is unsuitable for use as a parking space

- The existing parking space is unable to easily or safely accessed from wells lane given the narrow width of this roadway and the location of the telegraph pole adjacent to the garage entry. This is demonstrated in the swept paths figure below:

⁹ *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 at [94(c)] and *Randwick City Council v Micaul Holdings Pty Ltd* at [34]

¹⁰ *Project Venture Developments v Pittwater Council [2005] NSWLEC 191* at [24] to [33]

¹¹ *Project Venture Developments v Pittwater Council [2005] NSWLEC 191* at [25]

¹² *Ibid* at [26]

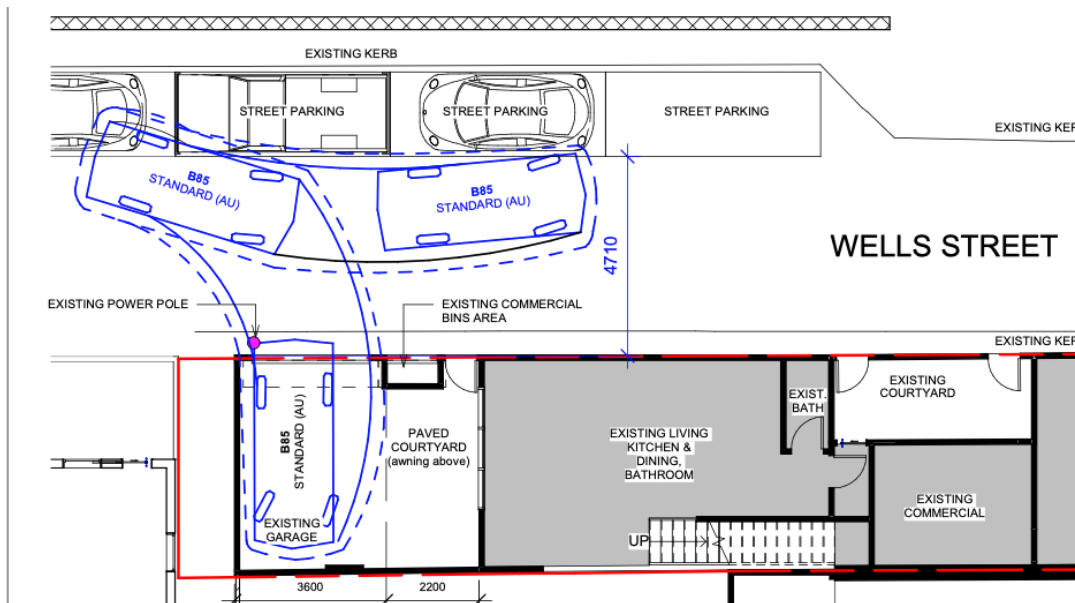


Figure 1 Swept Paths Diagram

- Given that the parking is unable to be used safely or reliably in its current form, the use of the garage as a secondary dwelling is considered to be a more appropriate use of the land and more in line with the objects of the Environmental Planning and Assessment Act 1979 and SLEP.

3. Clause 4.6(5)

In the context of the requirements of Clause 4.6(5), it is considered that no matters of State or regional planning significance are raised by the proposed development. Moreover, it is considered that there would be no public benefit in maintaining the particular planning control in question, in the case of this specific development.

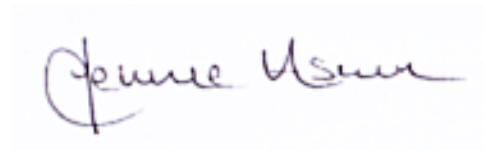
Conclusion

The proposal is consistent with the objects of Section 1.3 of the EP& A Act, 1979, which are to encourage development that promotes the social and economic welfare of the community and a better environment, to promote and coordinate orderly and economic use and development of land, to promote the delivery and maintenance of affordable housing, to promote good design and amenity of the built environment and to protect the heritage of the built environment.

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

and that there are sufficient environmental planning grounds to support the variation.

Based on this Clause 4.6 request, the consent authority can be satisfied that the written request has adequately addressed the matters required to be demonstrated by subclause (3), and that the proposed development is consistent with the objectives of the parking for sites containing a secondary dwelling development standard under the Housing SEPP, in which the development is proposed to be carried out.



Jennie Askin
aSquare Planning Pty Ltd

12 June 2024

Attachment D

Submission

From: [REDACTED] <[REDACTED]> on behalf of [REDACTED] <[REDACTED]> <[REDACTED]>

Sent on: Thursday, July 11, 2024 3:01:21 PM

To: council@cityofsydney.nsw.gov.au

Subject: D/2024/477 231 Chalmers St Redfern - Response

Caution: This email came from outside the organisation. Don't click links or open attachments unless you know the sender, and were expecting this email.

To: City of Sydney

Please note: I ask that all identifiable information about me remains private, that includes my address, name and method of determining my geographical location with reference to 231 Chalmers Street Redfern based on the information I have provided in response to the DA, as per below.

I live in the [REDACTED] to 231 Chalmers Street Redfern, [REDACTED]. My objection to the development application # D/2024/477 relates to shadowing/lack of direct sunlight and the resulting detrimental effects.

While I am not an architect, I note the proposed changes in the DA include raising the existing garage roof, and the addition of a bathroom. The significant issue I have with the DA is in relation to the obstruction of direct sunlight into my backyard when the sun is becoming lower, and naturally at its lowest, in the northern part of the sky seasonally. It is already an issue with the current design/structure of 231 Chalmers Street Redfern. The current absence of direct natural sunlight into my backyard because of design/structure obstruction is causing several issues already, they include: -

- the creation of moss and mould on hard walkway surfaces making those surfaces a slip hazard and breathing hazard (family members have experienced slips multiple times).
- Laundry (washed wet clothes) do not dry on the clothesline in the shadows within the available daylight hours, requiring removal and placement into the clothes dryer. Neither a convenient, nor environmentally friendly workaround.
- Plants not growing, or are dying, because they lack receiving direct sunlight. That is causing loss of plants, which is expensive, and not good for the environment in terms of loss of vegetation.

Raising/altering the physical height of any part of 231 Chalmers Street Redfern structure, particularly at the targeted western end of the property regarding this DA, will only increase the magnitude of the issues I have already listed above and further reduce the amount of natural direct sunlight into my backyard.

I am strongly opposed to any changes to the named property that will cause any further obstruction of direct sunlight onto my property at any time of year.

Kind regards,
[REDACTED]

Item 6.**Proposed Schedule of Local Planning Panel Meetings for 2025**

File No: X102821

Summary

In accordance with Division 2.5 of the Environmental Planning and Assessment Act 1979, in March 2018 the City of Sydney established a Local Planning Panel to determine development applications not determined under delegation by City staff or by the Central Sydney Planning Committee.

In accordance with clause 15 of the City of Sydney Local Planning Panel Operational Procedures, the Local Planning Panel is required to adopt an annual schedule of dates for Local Planning Panel meetings.

This report requests the Local Planning Panel adopt the draft schedule of Local Planning Panel meetings for 2025.

Recommendation

It is resolved that the Local Planning Panel adopt the draft Schedule of Local Planning Panel Meetings for 2025, as shown at Attachment A to the subject report.

Attachments

Attachment A. Draft Schedule of Local Planning Panel Meetings for 2025

Background

1. In accordance with Division 2.5 of the Environmental Planning and Assessment Act 1979, in March 2018 the City of Sydney established a Local Planning Panel to determine development applications not determined under delegation by City staff or by the Central Sydney Planning Committee.
2. The then Minister for Planning issued a direction under Section 9.1 of the Environmental Planning and Assessment Act 1979 on 23 February 2018 setting operational procedures to ensure local planning panels meet their obligations in the most efficient and effective manner.
3. Operational Procedures specific to the City of Sydney Local Planning Panel were last endorsed by the Panel on 1 September 2021.
4. In accordance with clause 15 of the Operational Procedures, the Local Planning Panel is required to adopt an annual schedule of dates for Local Planning Panel meetings.
5. The draft Schedule of Local Planning Panel Meetings for 2025 (Attachment A) has been prepared based on a three-week meeting cycle which is consistent with previous years.
6. The draft schedule proposes 16 meetings for the calendar year 2025.
7. A three-week meeting cycle is considered appropriate following a review of the number of development applications considered at each meeting in 2023 and 2024.

Relevant Legislation

8. Environmental Planning and Assessment Act 1979.

Critical Dates / Time Frames

9. The Local Planning Panel will adopt an annual schedule of dates for Local Planning Panel meetings in 2025.
10. The commencement time for the public meetings of the Local Planning Panel will be 5pm.
11. The 2025 Local Planning Panel meeting dates will be available on the City's website once endorsed.
12. The 2025 Local Planning Panel meeting dates will be circulated to all Panel members once endorsed.

ANDREW THOMAS

Executive Manager Planning and Development

Eileen Leather, Committee Secretary

Attachment A

**Draft Schedule of Local Planning Panel
Meetings for 2025**

SCHEDULE OF LOCAL PLANNING PANEL MEETINGS FOR 2025

DATE

WEDNESDAY 5 FEBRUARY

WEDNESDAY 26 FEBRUARY

WEDNESDAY 19 MARCH

WEDNESDAY 9 APRIL

WEDNESDAY 30 APRIL

WEDNESDAY 21 MAY

WEDNESDAY 11 JUNE

WEDNESDAY 2 JULY

WEDNESDAY 23 JULY

WEDNESDAY 13 AUGUST

WEDNESDAY 3 SEPTEMBER

WEDNESDAY 24 SEPTEMBER

WEDNESDAY 15 OCTOBER

WEDNESDAY 5 NOVEMBER

WEDNESDAY 26 NOVEMBER

WEDNESDAY 17 DECEMBER