

Attachment D

Clause 4.6 Variation Request – Floor Space Ratio
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CLAUSE 4.6 VARIATION REQUEST

SYDNEY LOCAL ENVIRONMENTAL PLAN 2012

CLAUSE 4.4 – FLOOR SPACE RATIO

DEVELOPMENT APPLICATION FOR ALTERATIONS AND ADDITIONS TO AN EXISTING INDUSTRIAL BUILDING AND CHANGE OF USE TO RESIDENTIAL FLAT BUILDING WITH ASSOCIATED PARKING, LANDSCAPING AND SERVICES UPGRADES

THE FORMER WOOLCOCK INSTITUTE OF MEDICAL RESEARCH BUILDING

No. 431 GLEBE POINT ROAD, GLEBE

Prepared for
SDHA & Associates

On Behalf of
G & J Drivas Pty Limited

Prepared by
BBC Consulting Planners

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1. INTRODUCTION

1.1 Purpose of this document

This document has been prepared to accompany a Development Application (“DA”) for the redevelopment of an existing building comprising internal alterations and additions and a change of use to a residential flat building to provide five (5) levels of residential accommodation and thirty (30) dwellings with associated parking, landscaping and services upgrades (“the proposal”) at No. 431 Glebe Point Road, Glebe (“the site”). The development contravenes Clause 4.4(2) of Sydney Local Environmental Plan (“SLEP”) 2012 relating to maximum floor space ratio (“FSR”). In accordance with Clause 4.6 of SLEP 2012 and Section 35B of the Environmental Planning and Assessment Regulation 2021 (“EP&A Regulation”), this document sets out the grounds on which the applicant seeks to demonstrate that:

- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
- (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

1.2 The Proposal

The objective of the proposal is to repurpose an existing, dormant, local heritage listed building whilst providing a high quality, well-designed residential flat building that will positively contribute to the streetscape character of Glebe Point Road and improve housing supply within a well located inner-city suburb.

The proposal represents a balanced planning outcome, having regard to the existing controls, the constraints and opportunities of the site, existing development in the locality and the need to consider the amenity of neighbouring residential properties. The proposal will provide excellent amenity for future residents without unreasonably affecting the amenity of existing residents in the immediate vicinity of the site.

The location and boundaries of the site are identified on the set of illustrative figures which forms part of this document.

All relevant aspects of the proposal are described and assessed in the Statement of Environmental Effects (“SEE”) and accompanying documents.

Pursuant to Clause 4.4(2) of SLEP 2012, the maximum FSR for the site, which is located in the R1 General Residential Zone is 1:1. The existing building exceeds the maximum FSR control when measured in accordance with the definition of “gross floor area” in SLEP 2012. The existing building currently has a total Gross Floor Area (“GFA”) of 6,060m² equating to a maximum FSR of 2.51:1. The proposed building has a total GFA of 5,941m². The proposed FSR of building will be 2.46:1 which exceeds the FSR control in SLEP 2012 of 1:1. Provided in **Attachment 1** are the architect’s existing FSR calculations. Provided in **Attachment 2** are the proposed FSR calculations.

1.3 Site, Zoning, Zone Objectives and Permissibility

The location and boundaries of the site are identified on **Figure 1** and **Figure 2** respectively. The immediate and wider contexts of the site are shown on **Figures 3A – 3C**.

The site is zoned R1 General Residential (see **Figure 4A**), the objectives of which are as follows:

- *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.”*

The proposal is consistent with the above objectives.

Residential flat buildings are permissible with consent in the R1 General Residential zone pursuant to SLEP 2012.

1.4 The Floor Space Ratio Standard in SLEP 2012

Clause 4.4(2) of SLEP 2012 provides that the maximum FSR should not exceed 1:1 on the site, which is located in the R1 General Residential Zone. “Floor Space Ratio” is defined in Clause 4.5 of SLEP 2012 to mean:

“Definition of “floor space ratio” The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area.”

Gross Floor Area is defined in SLEP 2012 to mean:

“gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
 - (b) habitable rooms in a basement or an attic, and
 - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes—
- (d) any area for common vertical circulation, such as lifts and stairs, and
 - (e) any basement—
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
 - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
 - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and

- (h) any space used for the loading or unloading of goods (including access to it), and*
- (i) terraces and balconies with outer walls less than 1.4 metres high, and*
- (j) voids above a floor at the level of a storey or storey above.”*

Clause 4.6 of SLEP 2012 allows approval to be granted to a DA, even though the proposal contravenes a development standard in SLEP 2012, including the maximum FSR standard in Clause 4.4.

This document addresses the requirements of Clause 4.6 of SLEP 2012 and Section 35B of the EP&A Regulation.

1.5 Context

The site comprises No. 431 Glebe Point Road. It forms part of the Glebe Point Road Heritage Conservation Area (reference: C29) and is a locally listed heritage item (reference: 1773) (see **Figure 4D**). A Heritage Impact Statement has been submitted with the DA.

The site is located on the corner of Glebe Point Road and Leichhardt Street in the suburb of Glebe (see **Figure 1**). The site is located in a predominately low and mid-rise residential area and enjoys excellent access to local amenities including Bicentennial Park, Blackwattle Bay, Jubilee Park Light Rail Station, The Tramsheds (retail and food hub), private and public schools, Glebe Point Road local shopping centre, Sydney Fish Markets and public transport networks.

Surrounding land uses predominantly comprise residential commercial and mixed-use buildings. The context of the site, in relation to other residential dwellings and their relationship with Glebe Point Road and the surrounding area in Glebe is evident from the aerial images in **Figures 3A – 3C**.

1.6 Principles and relevant authorities

The principles and relevant authorities which have been considered in the preparation of this Clause 4.6 variation request are those found in:

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;
- Wehbe v Pittwater Council [2007] NSWLEC 827 (“Wehbe”);
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 (“Four2Five No 1”);
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 (“Four2Five No 2”);
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 248 (“Four2Five No 3”);
- Micaul Holdings Pty Limited v Randwick City Council [2015] NSWLEC 1386;
- Randwick City Council v Micaul Holdings Pty Ltd [2016] NSWLEC 7;
- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC118;
- Al Maha Pty Ltd v Huajun Investments Pty Ltd [2018] NSWCA 245;
- Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61; and
- Rebel MH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130.

2. RELEVANT DEVELOPMENT STANDARD

This document addresses non-compliance with the maximum FSR control in Clause 4.4 of SLEP 2012 which states:

“4.4 Floor space ratio

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

- (a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,*
- (b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,*
- (c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,*
- (d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.*

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.”

3. EXCEPTIONS TO DEVELOPMENT STANDARDS (CLAUSE 4.6)

3.1 Clause 4.6 of Sydney LEP 2012

Clause 4.6 of SLEP 2012 permits consent to be granted for a development application even though the development proposed in the development application would contravene a development standard imposed by SLEP 2012.

Clause 4.6 of SLEP 2012 states:

“(1) The objectives of this clause are as follows—

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted to 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, and

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

Note—

The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).

(4) The consent authority must keep a record of its assessment carried out under subclause (3).

(5) (Repealed)

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone C2 Environmental Conservation, Zone C3 Environmental Management or Zone C4 Environmental Living if—

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(7) (Repealed)

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

- (a) a development standard for complying development,*
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
- (c) clause 5.4,*
- (caa) clause 5.5,*
- (ca) clause 4.3 (Height of buildings), but only in relation to land shown as being in Area 1 or Area 2 on the Height of Buildings Map,*
- (cab) clause 4.5A (Balconies on certain residential flat buildings),*
- (cb) clause 5.3A (Development below ground level in Zone RE1),*
- (cc) clause 6.10 (Heritage floor space),*
- (cd) clause 6.11 (Utilisation of certain additional floor space requires allocation of heritage floor space),*
- (cda) clause 6.11A (Temporary alternative heritage arrangements in relation to allocation of heritage floor space),*
- (cdb) clause 6.16 (Erection of tall buildings in Central Sydney),*
- (ce) clause 6.17 (Sun access planes),*
- (cf) clause 6.18 (Overshadowing of certain public places), unless the additional overshadowing is caused by playground equipment, a shade structure, an awning, a sculpture or artwork, a community notice or a public information sign,*
- (cg) clause 6.19 (View planes), except in relation to the Martin Place View of western sky view protection plane,*
- (cga) clause 6.26 (AMP Circular Quay precinct),*
- (cgb) clause 6.29 (58–60 Martin Place, Sydney),*
- (cgc) clause 6.33 (230–238 Sussex Street, Sydney),*
- (cgd) clause 6.35 (45 Murray Street, Pyrmont), but only if the development is an alteration or addition to an existing building,*
- (cge) clause 6.36 (12–20 Rosebery Avenue, 22–40 Rosebery Avenue and 108 Dalmeny Avenue, Rosebery),*
- (cgf) clause 6.37 (296–298 Botany Road and 284 Wyndham Street, Alexandria),*
- (cgg) clause 6.41 (7–15 Randle Street, Surry Hills),*
- (cgh) clause 6.42 (102–106 Dunning Avenue, Rosebery),*
- (cgi) clause 6.40 (2–32 Junction Street, Forest Lodge),*
- (cgj) clause 6.43 (Danks Street South Precinct),*
- (cgk) clause 6.52 (1–11 Oxford Street, Paddington),*
- (cgl) clause 6.55—4–22 Wentworth Avenue, Surry Hills,*

- (cgm) clause 6.56—24–40 Wentworth Avenue, Surry Hills,*
- (cgn) clause 6.58—187–189 Thomas Street, Haymarket,*
- (ch) Division 1 of Part 7 (Car parking ancillary to other development),*
- (ci) clause 6.19A (Views of Sydney Harbour),*
- (cj) clause 6.21E(2) and (5) (Tower cluster areas),*
- (ck) clause 6.60C—2 Chifley Square, Sydney,*
- (cl) clause 6.60D—Oxford Street Cultural and Creative Precinct,*
- (cm) clause 6.60E—Flinders Street and Oxford Street,*
- (cn) clause 6.60G—15–23 Hunter Street and 103–107 Pitt Street, Sydney,*
- (co) clause 6.60H—Hunter Street Metro Station,*
- (cp) clause 6.60I—85–93 Commonwealth Street, Surry Hills.”*

Accordingly, Clause 4.6 can be used to vary (to the extent required) the 1:1 maximum FSR standard in Clause 4.4(2) of SLEP 2012 in respect of a non-compliance with the FSR limit.

3.2 Section 35B of Environmental Planning and Assessment Regulation 2021

Section 35B of the EP&A Regulation states:

“35B Additional requirements for development applications involving contravention of development standards

(1) This section applies to a development application that proposes, in accordance with a relevant EPI provision, development that contravenes a development standard imposed by any environmental planning instrument.

(2) The development application must be accompanied by a document that sets out the grounds on which the applicant seeks to demonstrate that—

(a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and

(b) there are sufficient environmental planning grounds to justify the contravention of the development standard.

(3) In this section—

relevant EPI provision means—

(a) clause 4.6 of a local environmental plan that adopts the provisions of the Standard Instrument, or

(b) an equivalent provision of another environmental planning instrument.”

This document has been prepared for this purpose.

4. COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE

4.1 Extent of non-compliance

The existing total GFA of the building is 6,060m² when measured in accordance with the gross floor area definition in SLEP 2012. The site has a total area of 2,419m² equating to an existing maximum FSR of 2.51:1. This exceeds the maximum permitted FSR for the site under SLEP 2012 of 1:1.

The proposal has a total GFA of 5,941m² equating to a maximum FSR of 2.46:1 which also exceeds the maximum permitted FSR for the site pursuant to SLEP 2012.

The proposal will result in an overall reduction of the total GFA of the development by 119m² over the existing building.

The extent of non-compliance of the proposal is shown on the existing GFA calculations (see **Attachment 1**) and the proposed GFA calculations (see **Attachment 2**).

For reasons set out in Section 4.3.3 of this Clause 4.6 variation request, no significant or unreasonable adverse impacts arise from this non-compliance noting that the existing building already significantly exceeds the maximum FSR.

4.2 Objectives of the Standard

The objectives of the maximum FSR standard are set out as follows in Clause 4.4(1) of SLEP 2012:

“4.4 Floor space ratio

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

- (a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,*
- (b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,*
- (c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,*
- (d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.”*

The proposed development is consistent with these objectives notwithstanding the non-compliance with the 1:1 FSR standard in Clause 4.4 of SLEP 2012.

4.3 Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case

This section sets out grounds demonstrating that compliance with the development standards is unreasonable or unnecessary in the circumstance of the case.

In *Wehbe*, Chief Justice Preston set out five non-exhaustive ways in which it may be established that compliance with the development standard is unreasonable or unnecessary in the circumstance of the case:

- “1. the objectives of the standard are achieved notwithstanding noncompliance with the standard;*
- 2. the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. the underlying object or purpose would be defeated or thwarted if compliance was required and therefore 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 and hence compliance with the standard is unnecessary and unreasonable;*
- 5. the compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.”*

In Initial Action, the Chief Judge clarified that an applicant does not need to establish all of the five elements above. In this regard, the Chief Judge said [paragraph 22]:

These five ways are not exhaustive of the ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary; they are merely the most commonly invoked ways. An applicant does not need to establish all of the ways. It may be sufficient to establish only one way, although if more ways are applicable, an applicant can demonstrate that compliance is unreasonable or unnecessary in more than one way.

4.3.1 The objectives of the standards are achieved notwithstanding non-compliance with the standard

The development achieves the objectives of the maximum FSR standard in Clause 4.4(1) of SLEP 2012 for the following reasons:

(a) to provide sufficient floor space to meet anticipated development needs for the foreseeable future,

- The proposed development decreases the total GFA of the building by 119m² resulting in the maximum FSR decreasing from 2.51:1 (existing) to 2.46:1 (proposed). Notwithstanding is reduction in floor space the proposed development will provide sufficient floorspace to meet the demand for high quality and accessible housing in an accessible location and an established urban area.

(b) to regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,

- There is a reduction in the density of development as measured by a floor space ratio development standard.
- The existing building is listed as a local heritage item (reference: I773) pursuant to Schedule 5 of *Sydney Local Environmental Plan 2012* ("SLEP") and is to be retained.
- The proposal largely retains the built form and massing of the existing building, supplemented by discrete upper level additions behind the parapet line and minor envelope additions in the areas to the east/southeast of the existing third and fourth floor envelope, where they are least visible from the public domain, and setback sufficiently from the southern boundary/parapet to limit any substantial overshadowing or overlooking to/of neighbouring properties.
- The land use intensity decreases with the change of use from commercial / research to residential uses in terms of GFA, number of parking spaces, number of potential occupants and vehicle generation. There will be a significant net decrease in traffic generation particularly during the peak period commute times.
- The proposed development will have no significant adverse impacts in terms of bulk and scale. The existing scale, setbacks, form and massing of the building would largely be unchanged with alterations and additions to the building envelope being carefully located away from street frontages and behind the main building facades to the west and north. These additions have been positioned so as to have limited impact and to not be visible from the public domain at the primary street frontage. The height and massing of the proposed additions to the building envelope has been designed so as to be consistent with the primary facades and parapets of the exiting building.

(c) to provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,

- The proposal will not have any adverse impacts on the capacity of existing and planned infrastructure. The site is located in an area which is well serviced by public transport, is located in close proximity to shops and services and has connections to public open space, public schools and community facilities.

(d) to ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

- The proposal responds to the varying character of the area by integrating built form, articulation and façade treatments that soften the visual impact of the development and maintain a respectful relationship with adjoining properties.
- The proposed redevelopment has been sensitively designed so as to minimise any negative impacts associated with overlooking of neighbouring dwellings and a resulting loss of privacy. The northern and southern elevations of the building (where possible) have limited additional window openings, generally consistent with the original building openings.
- The proposal will not result in the loss of any significant views. The existing building is significantly larger in height and scale when compared with immediate neighbouring buildings.

4.3.2 The extent of non-compliance is acceptable and reasonable

The non-compliance with the 1:1 maximum FSR standard in Clause 4.4(2) of SLEP 2012 which applies to the site is acceptable and reasonable in the circumstances of the case for the following reasons:

- the existing building already exceeds the maximum FSR standard;
- no adverse or significant environmental impacts arise from the proposed FSR non-compliance;
- the FSR of the proposal, notwithstanding the requested variation to the FSR standard, is appropriate for the conditions of the site and its context;
- the built form, bulk and scale of the proposal are appropriate in its context;
- the proposal is consistent with the objectives of the FSR controls;
- the proposal, with the non-compliant FSR, is still consistent with the overall planning intent for the site and for the surrounding R1 General Residential area;
- the proposal, with the non-compliant FSR, is still consistent with the desired future character for the Glebe Point Road Heritage Conservation Area (C29); and
- there are no adverse amenity or other impacts as detailed in Section 4.3.3.

4.3.3 There is a lack of adverse amenity impact

4.3.3.1 Initial Action Pty Ltd v Woollahra Municipal Council

There is a lack of any adverse amenity impact associated with the non-compliance for the reasons set out above in 4.3.2 above. In this regard, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ **expressly** held that “...one way of demonstrating consistency with the objectives of a development standard is to show a lack of adverse amenity impacts (see *Randwick City Council v Micaul Holdings Pty Ltd* at [34]).”

The amenity impacts of the proposal are addressed below.

4.3.3.2 View Impacts

The proposal will not result in the loss of any significant views. The existing building is significantly larger in height and scale when compared with immediate neighbouring buildings. The proposal will result in the reduction of total GFA and will not interfere with any existing views or vistas.

4.3.3.3 Privacy Impacts

The proposed redevelopment has been sensitively designed so as to minimise any negative impacts associated with overlooking of neighbouring dwellings and a resulting loss of privacy. The northern and southern elevations of the building (where possible) have limited additional window openings.

Windows on Level 1 and 2 of the southern façade have the potential to overlook adjoining properties to the south. There are currently windows on this façade which will be replaced with new windows and, in some cases, balconies within the building footprint. An existing stair well will be removed and three new windows installed. Window openings will be (as required) obscure glazing to a height of 1500mm above finished floor level. Other materials including

obscure glazing, louvres and screens will reduce the impacts of overlooking to/ from the site. Existing mature landscaping will be retained and embellished.

The eastern elevation is oriented towards Leichhardt Street and over the front of the dwelling at No 2 Leichhardt Street with no significant impact on privacy of this dwelling house.

The northern and western facades address public roads which provide separation between the development and adjacent residential properties.

At the roof levels, setbacks and a perimeter planting bed is proposed which will provide sufficient separation from the edge of the parapet to the common open space area minimising overlooking.

The fenestration of the existing building largely remains unchanged as a result of the proposed development.

4.3.3.4 Overshadowing Impacts

The bulk and scale of the building largely remains unchanged. The maximum height of the building will be increased by 2.47 metres with the higher elements well set back from the building edge. This results in some minor additional overshadowing in the afternoons. The development results in no additional overshadowing until approximately 2.00pm in the afternoon in mid-winter. At this time there is minor additional overshadowing of the roof of No. 429 Glebe Point Road and of the side wall of the existing building at No. 417 Glebe Point Road currently under renovation. At 3.00pm there will be minor additional overshadowing of the new townhouse development at No. 417 Glebe Point Road with the additional shadow falling primarily on the Level 1 balustrade and pergola to the ground floor awning. This will have no significant impact on the amenity of these future dwellings. The shadow impacts of the proposal are reasonable.

4.3.3.5 Bulk and Scale Impacts

The proposed development will not have any significant, adverse impacts in terms of bulk and scale. The existing scale, setbacks, form and massing of the building would largely be unchanged with alterations and additions to the building envelope being confined to the northeast of the site at third and fourth floor levels. These additions have been positioned so as to have limited impact and to not be visible from the public domain at the primary street frontage. The height and massing of the proposed additions to the building envelope has been designed so as to be consistent with the primary facades and parapets of the existing building. The additional levels to the rear of the building are set well back from the site boundaries and from adjoining and adjacent development, adjoin the higher elements of the building and retain the lower built form to the east away from Glebe Point Road.

5. THERE ARE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY THE CONTRAVENTION OF THE DEVELOPMENT STANDARD

This section demonstrates that there are sufficient environmental planning grounds to justify the contravention of the development standard.

The focus is to be on the elements of the development that contravenes the development standard, in this case the FSR of the building. The FSR of the proposed development is less than the FSR of the existing building. The contravention of the FSR development standard is justified on environmental planning grounds specific to this development for the following reasons (and for the reasons outlined in 4.3 above):

- The FSR of the development is influenced by the existing FSR of the building which also exceeds the maximum FSR development standard and is reduced.
- The additional building envelope to the east of the main building behind the northern facade at levels 3 and 4 is set well back from the northern and eastern boundaries and is set back from the existing building parapet. This addition is discrete and subservient to the main building form.
- The proposed FSR has no significant impact on the heritage significance of the heritage item on the site, nearby heritage items or the conservation area within which the site is located.
- The existing building and the additional building elements provide residential accommodation and associated facilities and services including outdoor spaces and landscaping consistent with the surrounding residential land uses and the intended future character of the area.
- The additional elements of the existing building do not obstruct any existing views and have no significant impacts on the scenic quality of the building or locality or views or vistas to the area.
- The extent to which the buildings exceed the maximum FSR does not change the relationship of the development to adjoining land to any significant extent.
- There will be no significant adverse amenity impacts arising from the extent to which the buildings exceed the maximum FSR development standard in relation to overlooking, overshadowing, obstruction of light or air, obstruction of views or any other such impacts on nearby existing or future residential properties.
- The proposal will have no adverse impact on the existing streetscape character of Glebe Point Road and is highly consistent with the character of the surrounding locality. The proposed development will enhance the streetscape, repurposing the existing, dormant heritage building. The proposal will retain high value heritage fabric throughout the building and reinstate original design features including the awning and original stairwell to Glebe Point Road. Additions to the built form will be sympathetic in nature and will offer a contemporary contrast to the more traditional painted brick finish of the existing building. The additions to the building envelope have been designed to be

subservient to the existing building and will largely, not be visible from the surrounding street network.

- The proposed development will be complimented by significant landscaping which will include the removal of low value trees that are in poor condition and the re-planting of four (4) new trees. Low level shrub planting and groundcovers are proposed at ground floor level providing verdant, common open space for future residents whilst improving the presentation of the site to its street frontages. Given the significant history of the site and its previous industrial/commercial uses, there are opportunities for heritage interpretation which will create interest in the building and the surrounding locality.
- As outlined at section 4.3.1 above, the proposed alterations and additions remain consistent with the objectives of the FSR development standard under the SLEP 2012 by demonstrating a lack of adverse amenity impacts – due to its design, placement and its private residential use (see *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 at [34]).

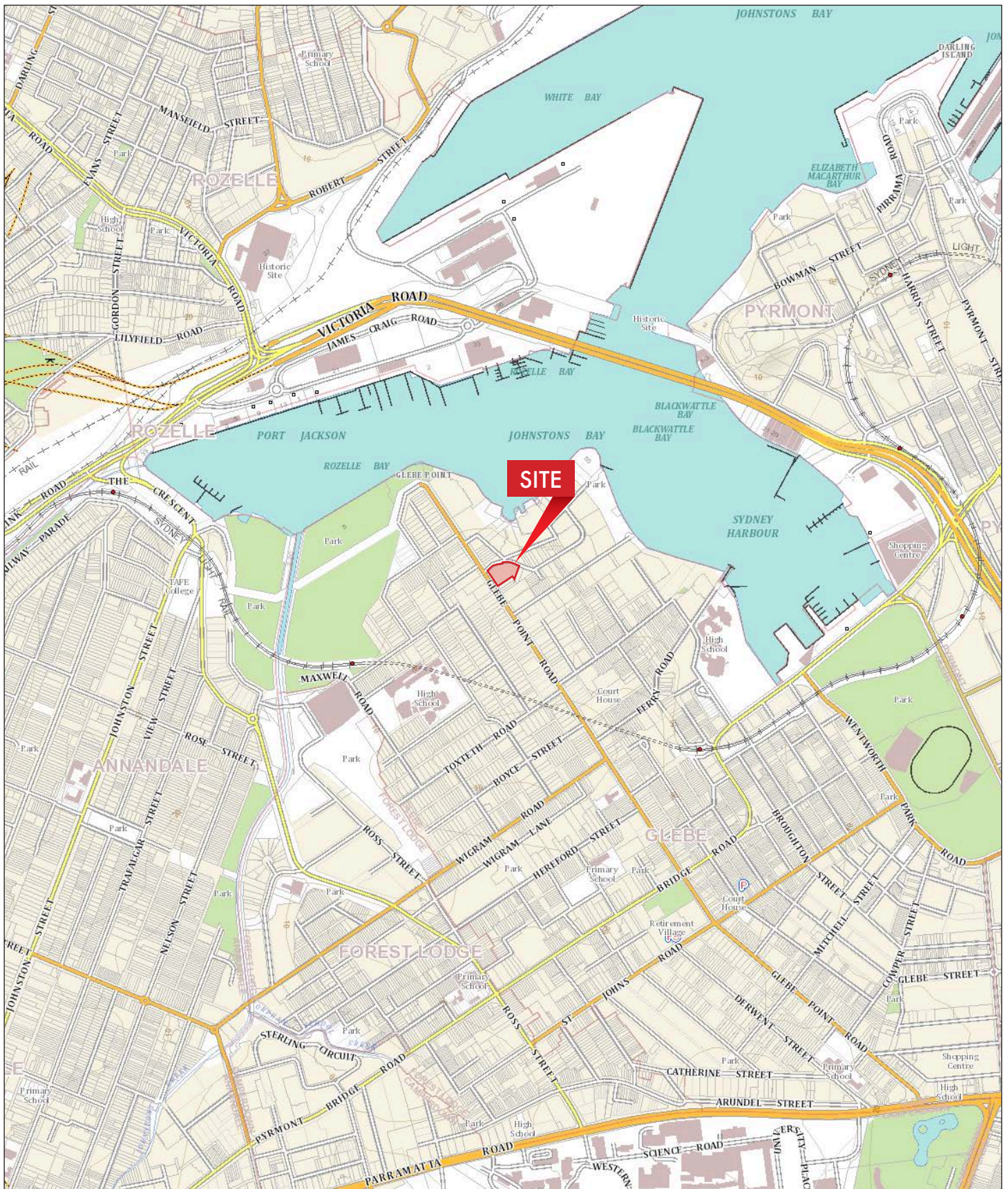
6. CONCLUSION

It can be concluded that strict compliance with the 1:1 maximum FSR standard in Clause 4.4(2) of SLEP 2012 is unreasonable and unnecessary in the circumstances of the case, that there are sufficient environmental planning grounds to justify the requested variation, and there is an absence of any significant or unreasonable environmental impact.

The proposal will result in additional residential accommodation a high-quality design outcome responsive the heritage qualities of the building and as envisaged for the site by its zoning and development controls. It will achieve the desired built form and amenity outcomes for the site and is consistent with the objectives both of the FSR standard and of the R1 General Residential zone in the SLEP 2012.

The Clause 4.6 variation request is well founded and should therefore be supported.

FIGURES



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



STATEMENT OF ENVIRONMENTAL EFFECTS 431 Glebe Point Road, Glebe

FIGURE 1
Location

Prepared For - SDHA



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

STATEMENT OF ENVIRONMENTAL EFFECTS
431 Glebe Point Road, Glebe

FIGURE 2
Site

Prepared For - SDHA



Source: NearMap 28 May 2025

STATEMENT OF ENVIRONMENTAL EFFECTS
431 Glebe Point Road, Glebe

FIGURE 3A
Aerial Photo – Detail

Prepared For - SDHA

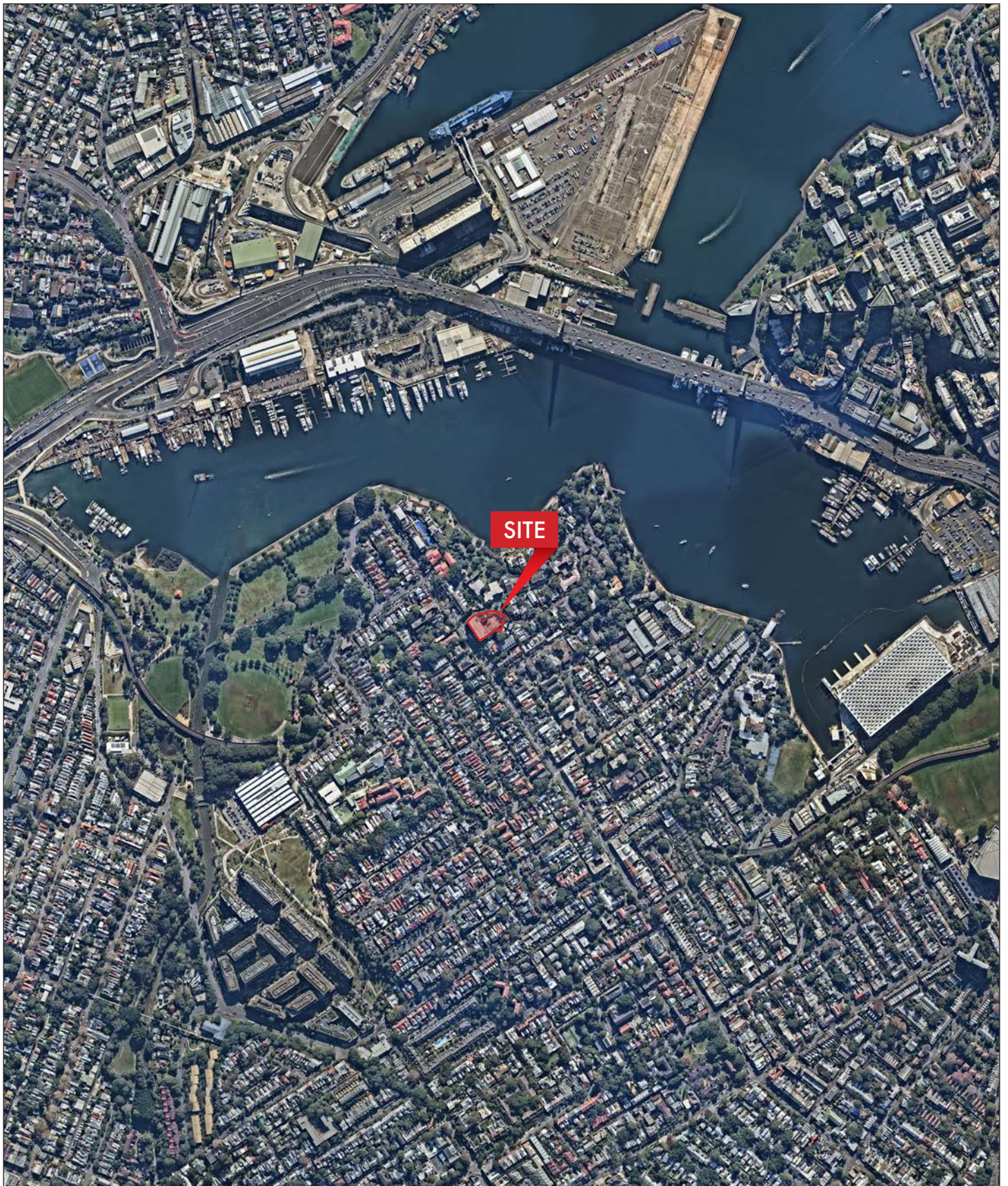


Source: NearMap 28 May 2025

STATEMENT OF ENVIRONMENTAL EFFECTS
431 Glebe Point Road, Glebe

FIGURE 3B
Aerial Photo – Surrounding Context

Prepared For - SDHA

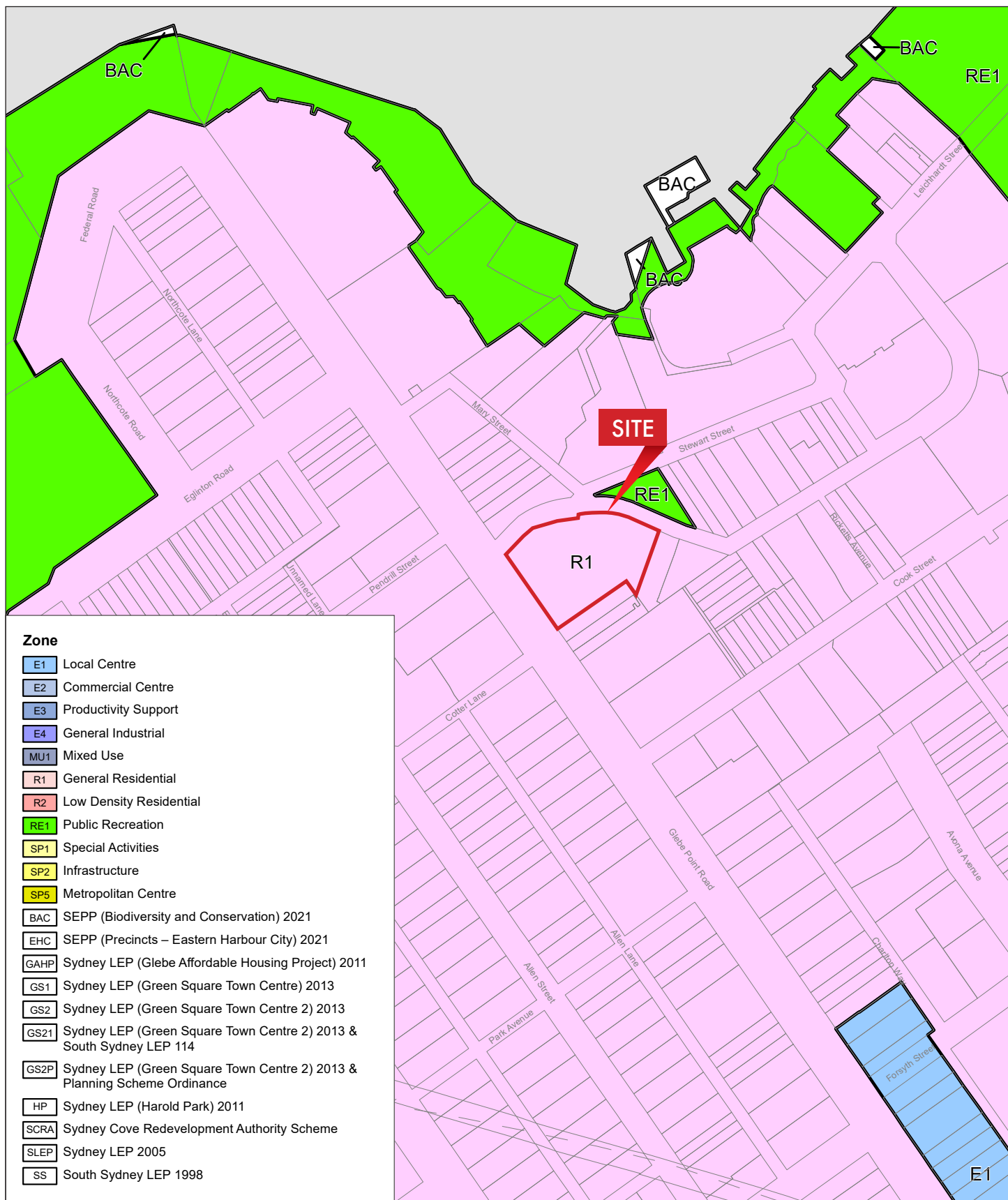


Source: NearMap 28 May 2025

STATEMENT OF ENVIRONMENTAL EFFECTS
431 Glebe Point Road, Glebe

FIGURE 3C
Aerial Photo – Wider Area

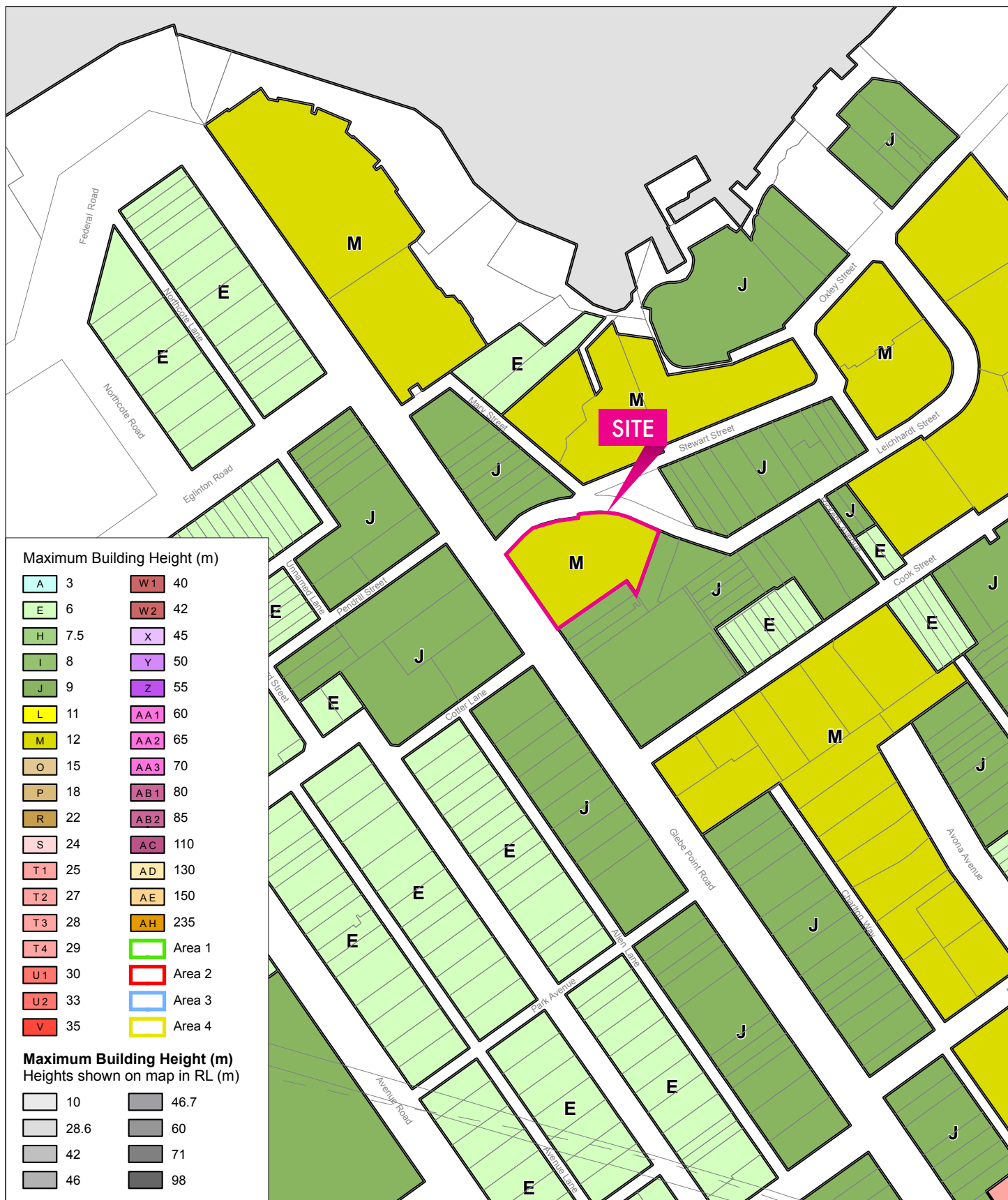
Prepared For - SDHA



STATEMENT OF ENVIRONMENTAL EFFECTS
431 Glebe Point Road, Glebe

FIGURE 4A
Zoning Map – Sydney LEP 2012

Prepared For - SDHA



STATEMENT OF ENVIRONMENTAL EFFECTS
431 Glebe Point Road, Glebe

FIGURE 4B
Height of Buildings Map – Sydney LEP 2012

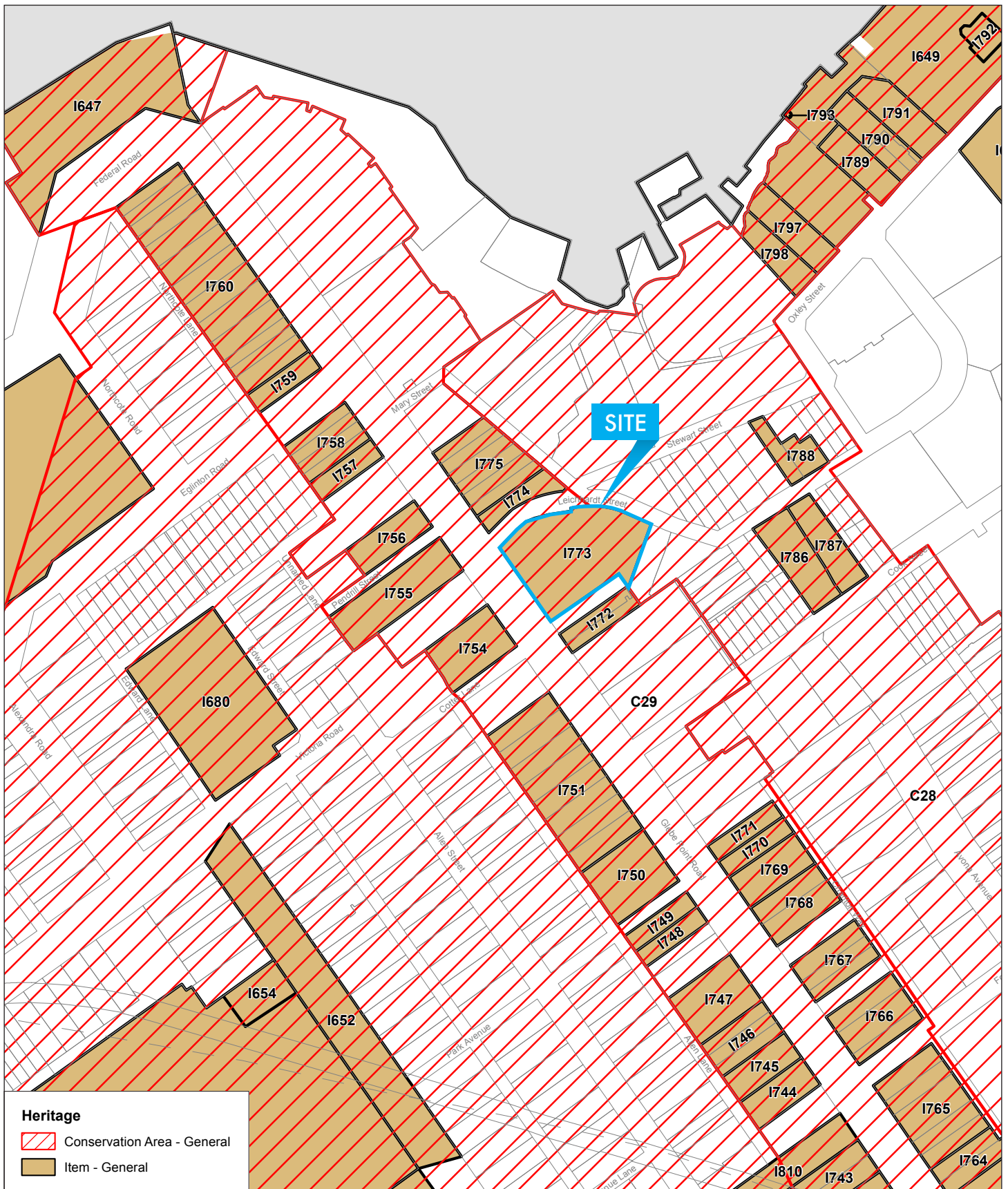
Prepared For - SDHA



STATEMENT OF ENVIRONMENTAL EFFECTS
431 Glebe Point Road, Glebe

FIGURE 4C
Floor Space Ratio Map – Sydney LEP 2012

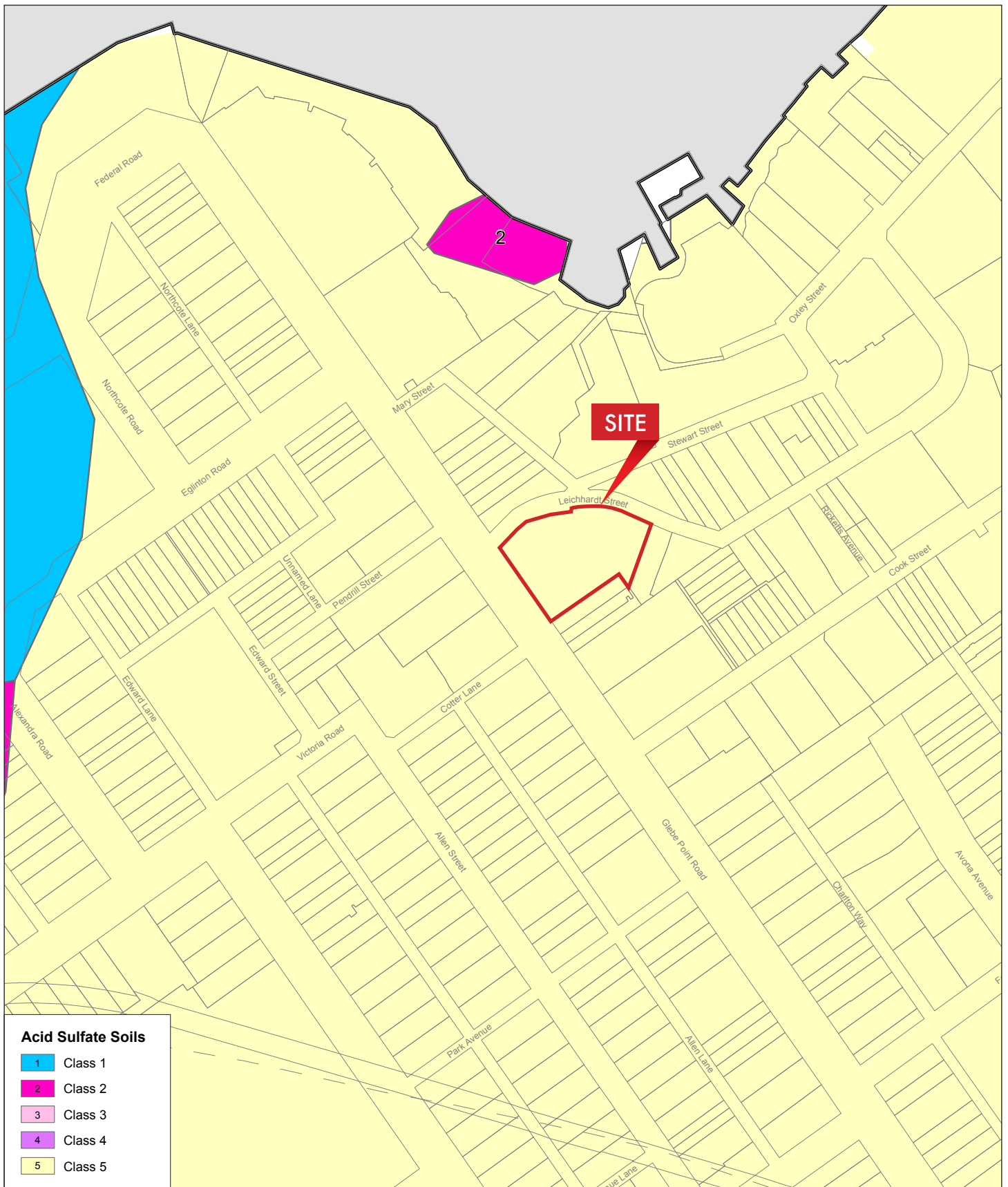
Prepared For - SDHA



STATEMENT OF ENVIRONMENTAL EFFECTS
431 Glebe Point Road, Glebe

FIGURE 4D
Heritage Map – Sydney LEP 2012

Prepared For - SDHA



STATEMENT OF ENVIRONMENTAL EFFECTS

431 Glebe Point Road, Glebe

FIGURE 4E

Acid Sulfate Soils Map – Sydney LEP 2012

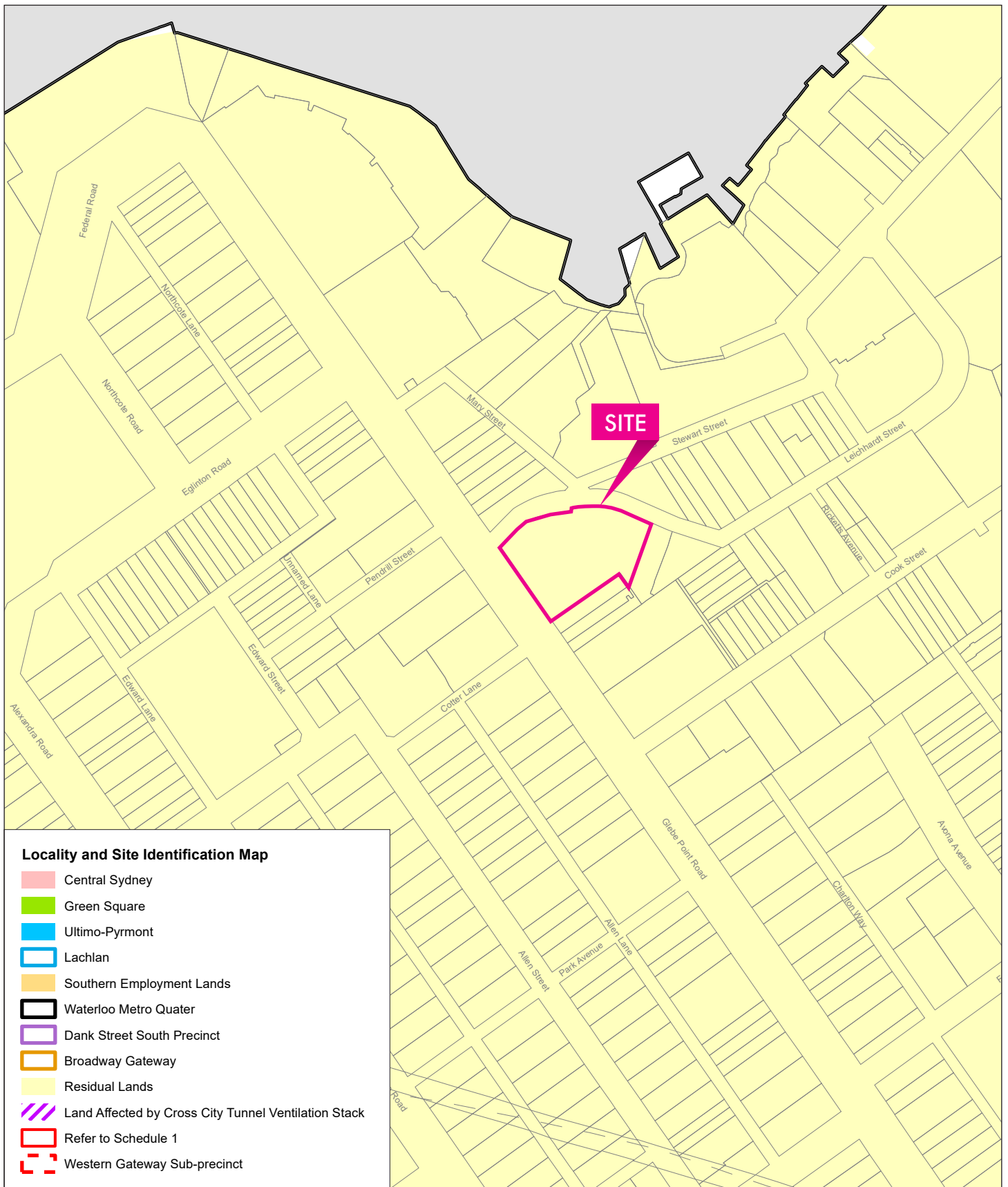
Prepared For - SDHA



STATEMENT OF ENVIRONMENTAL EFFECTS
431 Glebe Point Road, Glebe

FIGURE 4F
Land Use and Transport Integration Map – Sydney LEP 2012

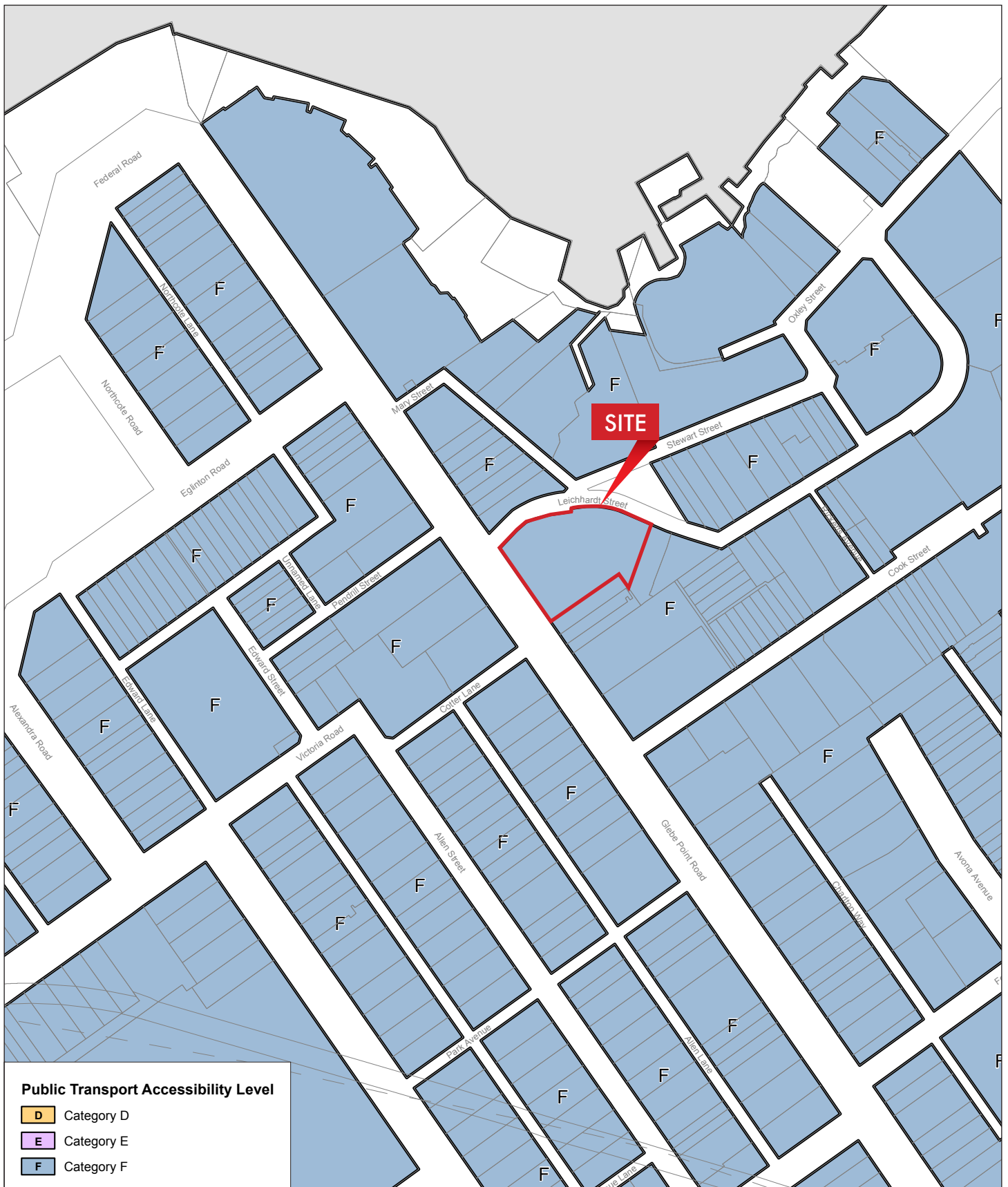
Prepared For - SDHA



STATEMENT OF ENVIRONMENTAL EFFECTS
431 Glebe Point Road, Glebe

FIGURE 4G
Locality and Site Identification Map – Sydney LEP 2012

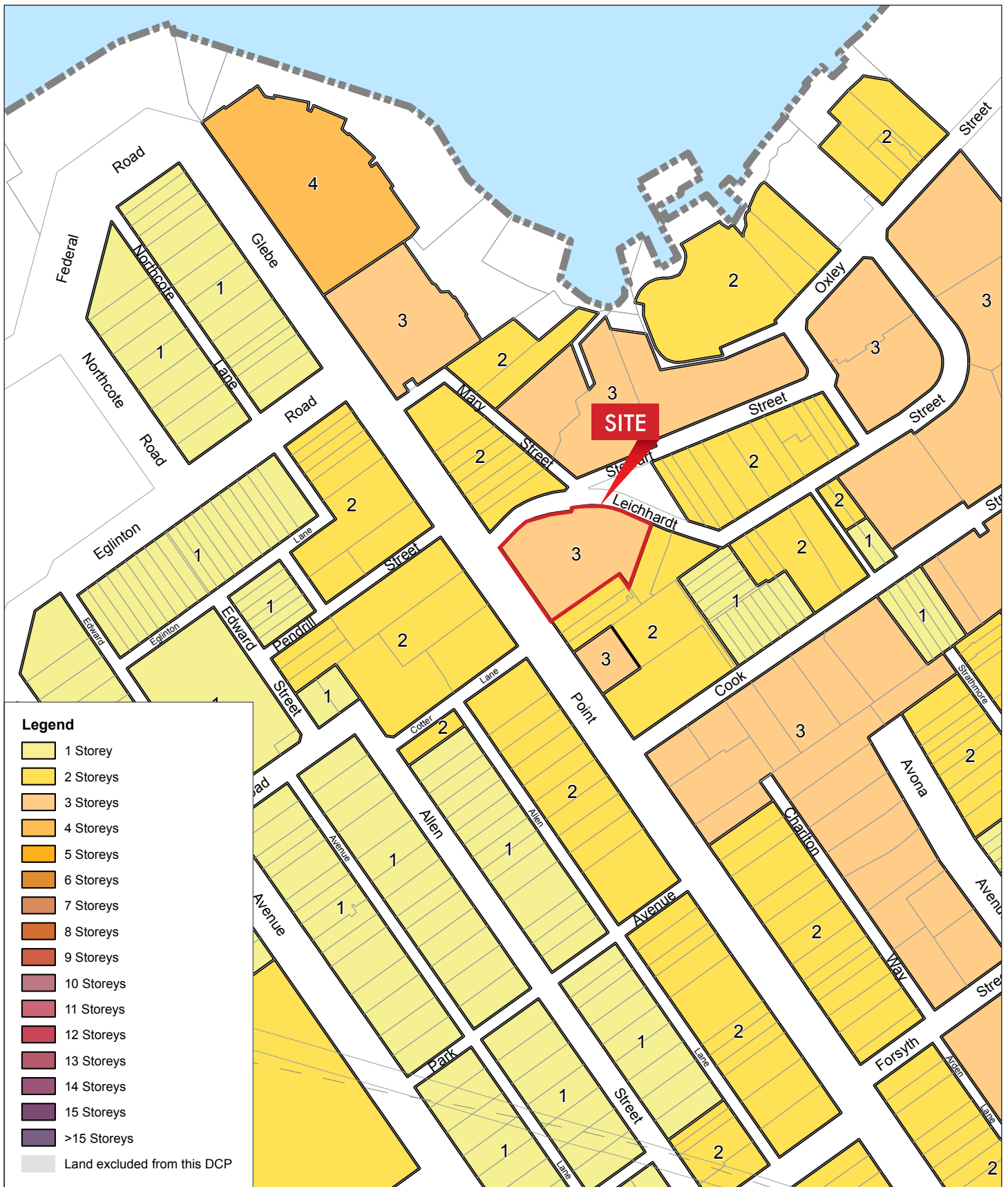
Prepared For - SDHA



STATEMENT OF ENVIRONMENTAL EFFECTS
431 Glebe Point Road, Glebe

FIGURE 4H
Public Transport Accessibility Level Map – Sydney LEP 2012

Prepared For - SDHA



STATEMENT OF ENVIRONMENTAL EFFECTS

431 Glebe Point Road, Glebe

FIGURE 5A

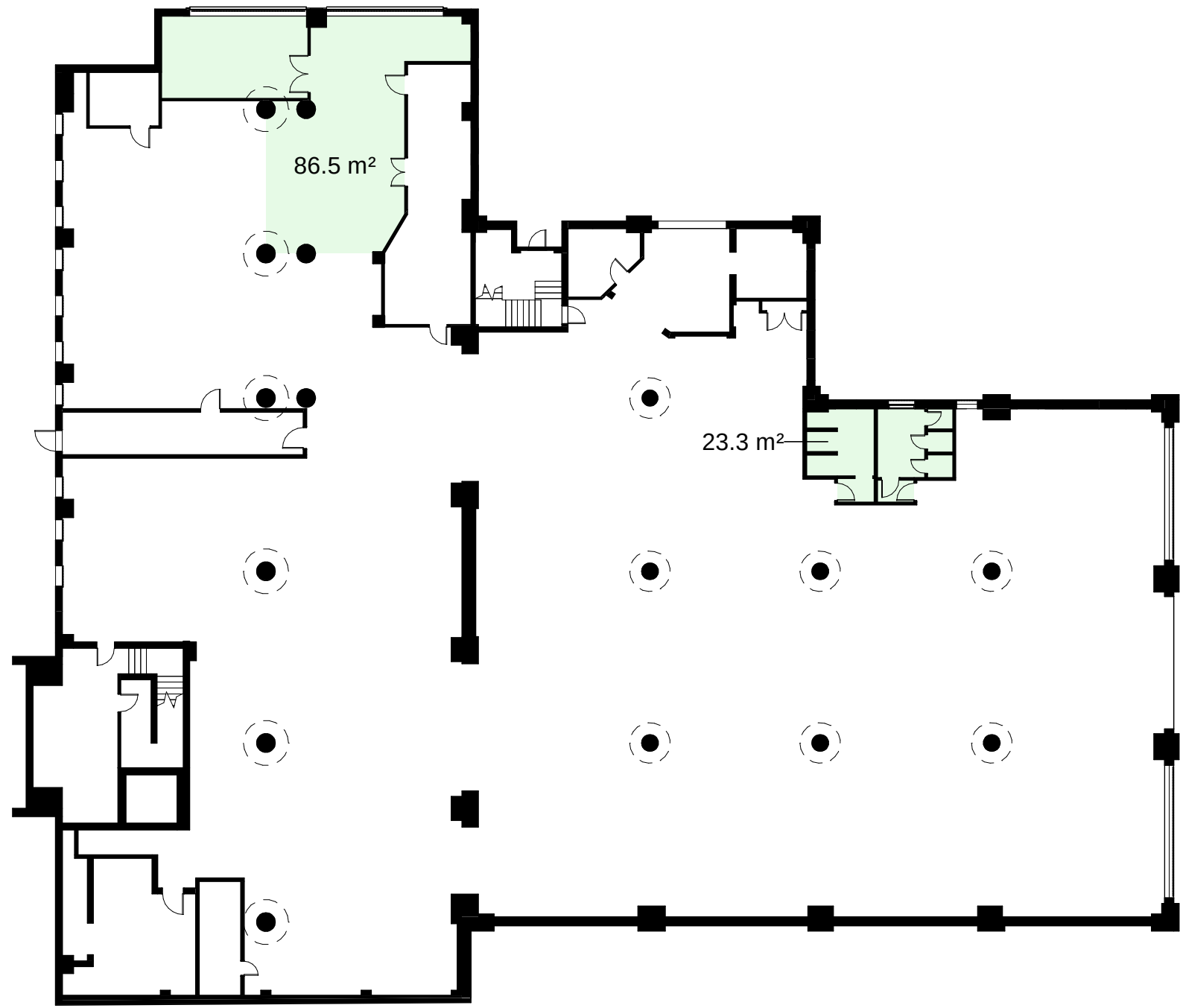
Height in Storeys Map – Sydney DCP 2012

Prepared For - SDHA

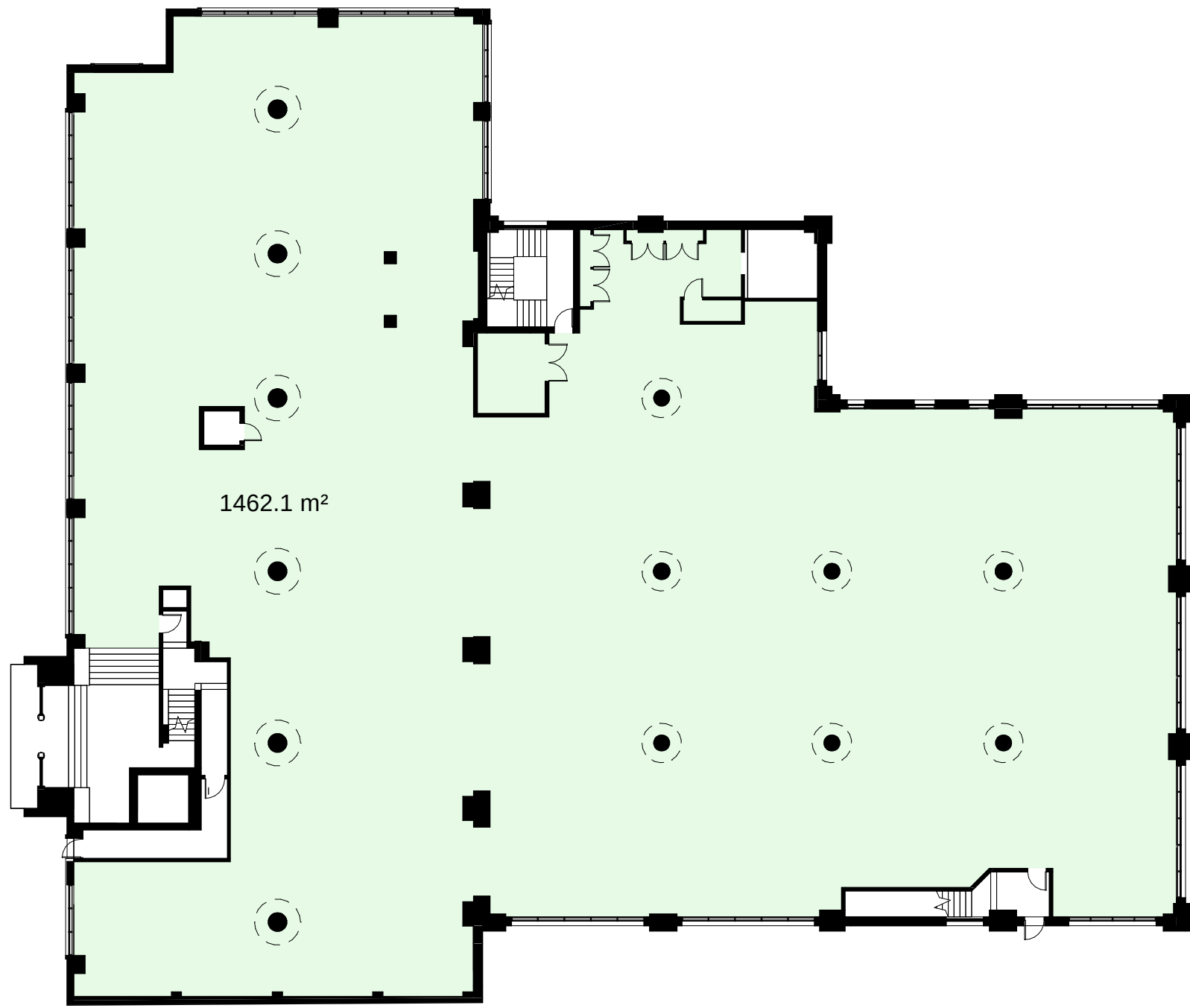
ATTACHMENTS

ATTACHMENT 1

AREA SCHEDULE - (E) GFA	
LEVEL	AREA
BASEMENT	109.9 m ²
GROUND FLOOR	1462.1 m ²
LEVEL 01	1483.8 m ²
LEVEL 02	1503.6 m ²
LEVEL 03	817.4 m ²
LEVEL 04	683.5 m ²
TOTAL	6060.2 m ²



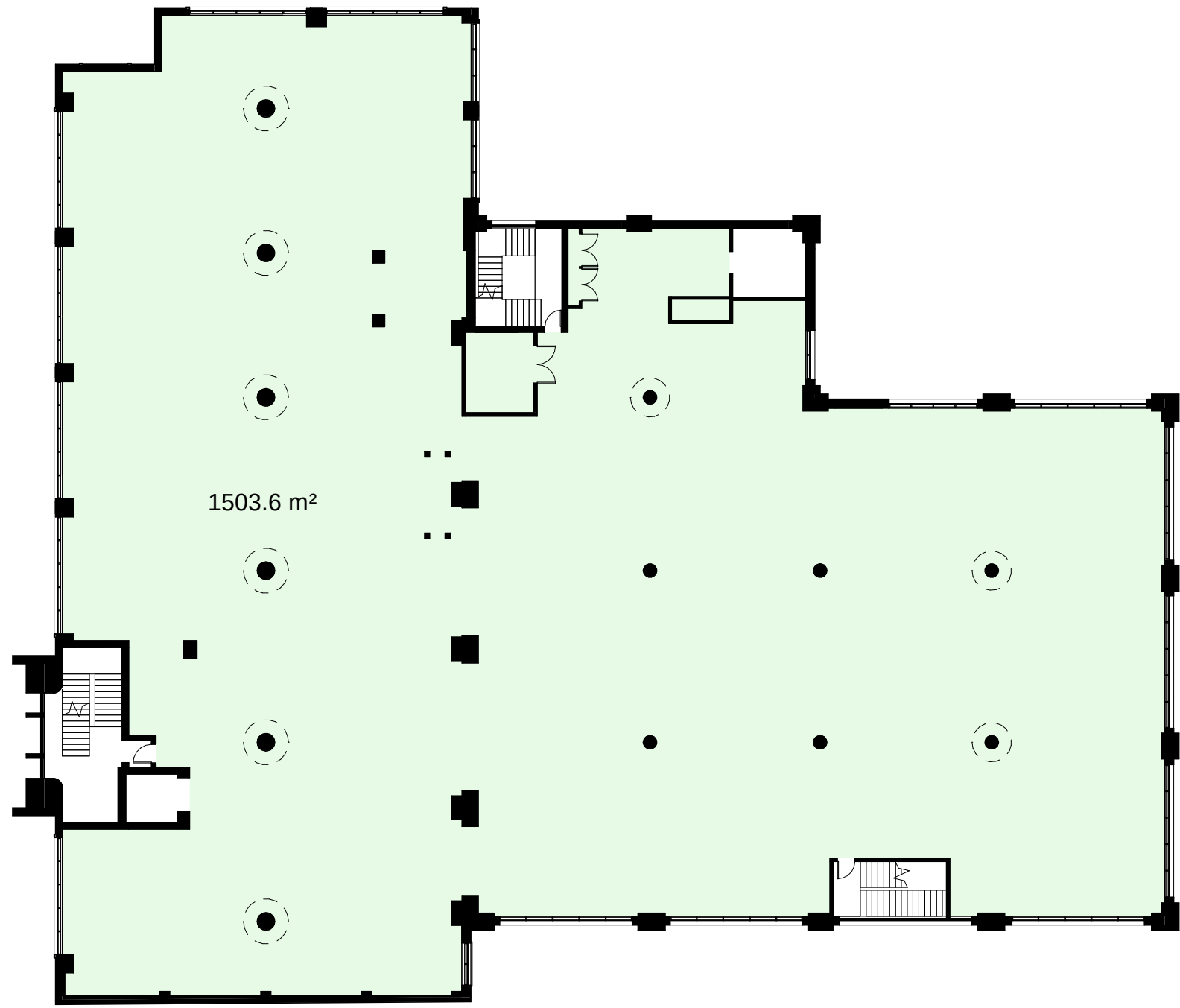
BASEMENT - (E) GFA



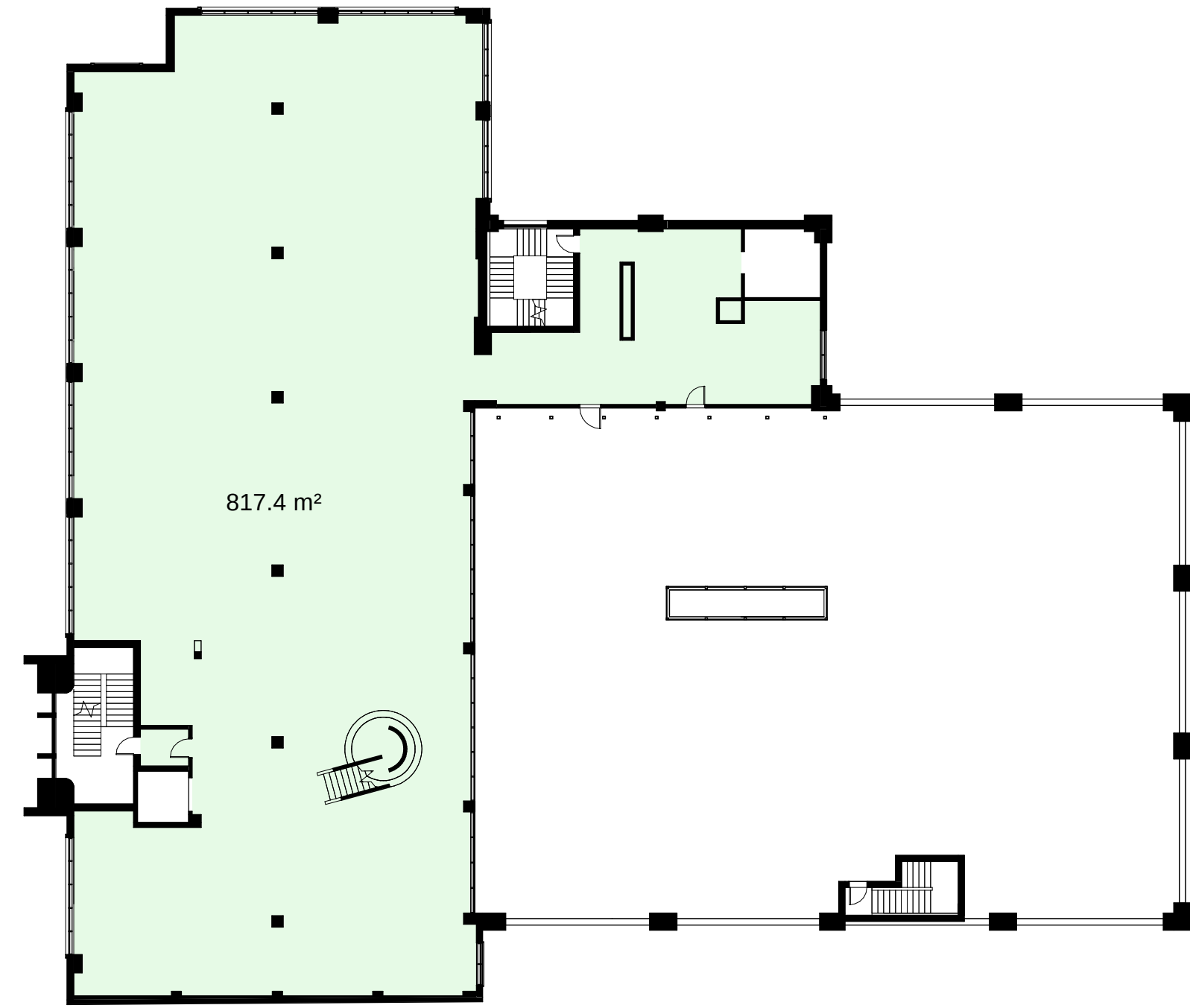
GROUND FLOOR - (E) GFA



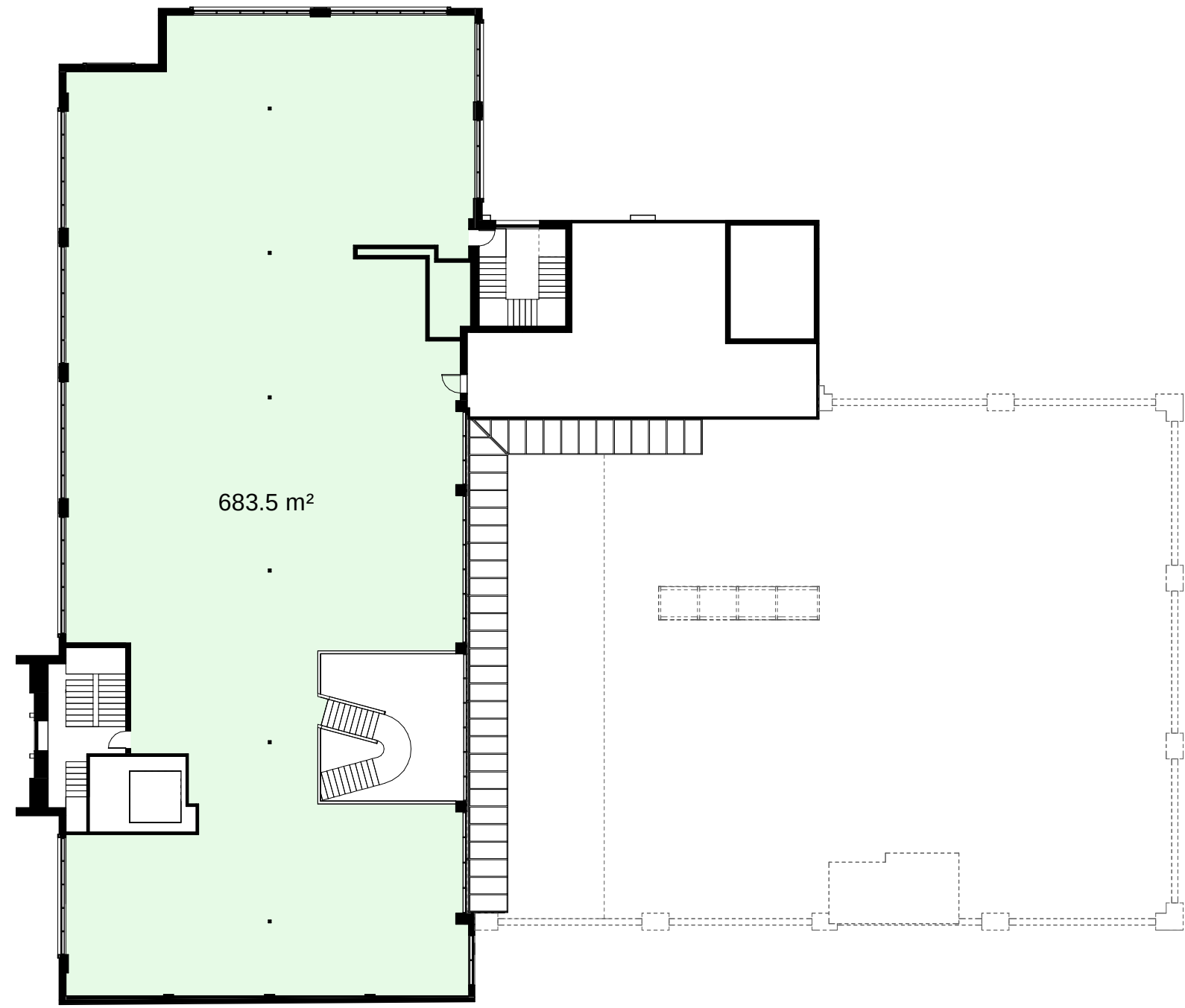
LEVEL 01 - (E) GFA



LEVEL 02 - (E) GFA



LEVEL 03 - (E) GFA



LEVEL 04 - (E) GFA

NSW Nominated Architects: Robert Denton Reg. No. 5782, Alex Kibble Reg. No. 6015
Do not scale drawings. Verify all dimensions on site. Notify architect of all discrepancies

Rev	Date	Description	Chkd	Auth
A	23.09.25	Issue for DA	DE	DE

NOT FOR CONSTRUCTION

Project
**431 GLEBE POINT ROAD
REDEVELOPMENT**
431 Glebe Point Road
Glebe, NSW 2037
Drawing Title
**EXISTING GROSS FLOOR AREA
PLANS**

Proj. Dir	Proj. Arch	Drawn	Sheet
AK	DE	AE	A1
Job No.	Date	Scale	
240058	Sep '25	1 : 250	

Drawing No.	Revision
AR DA 8100	A

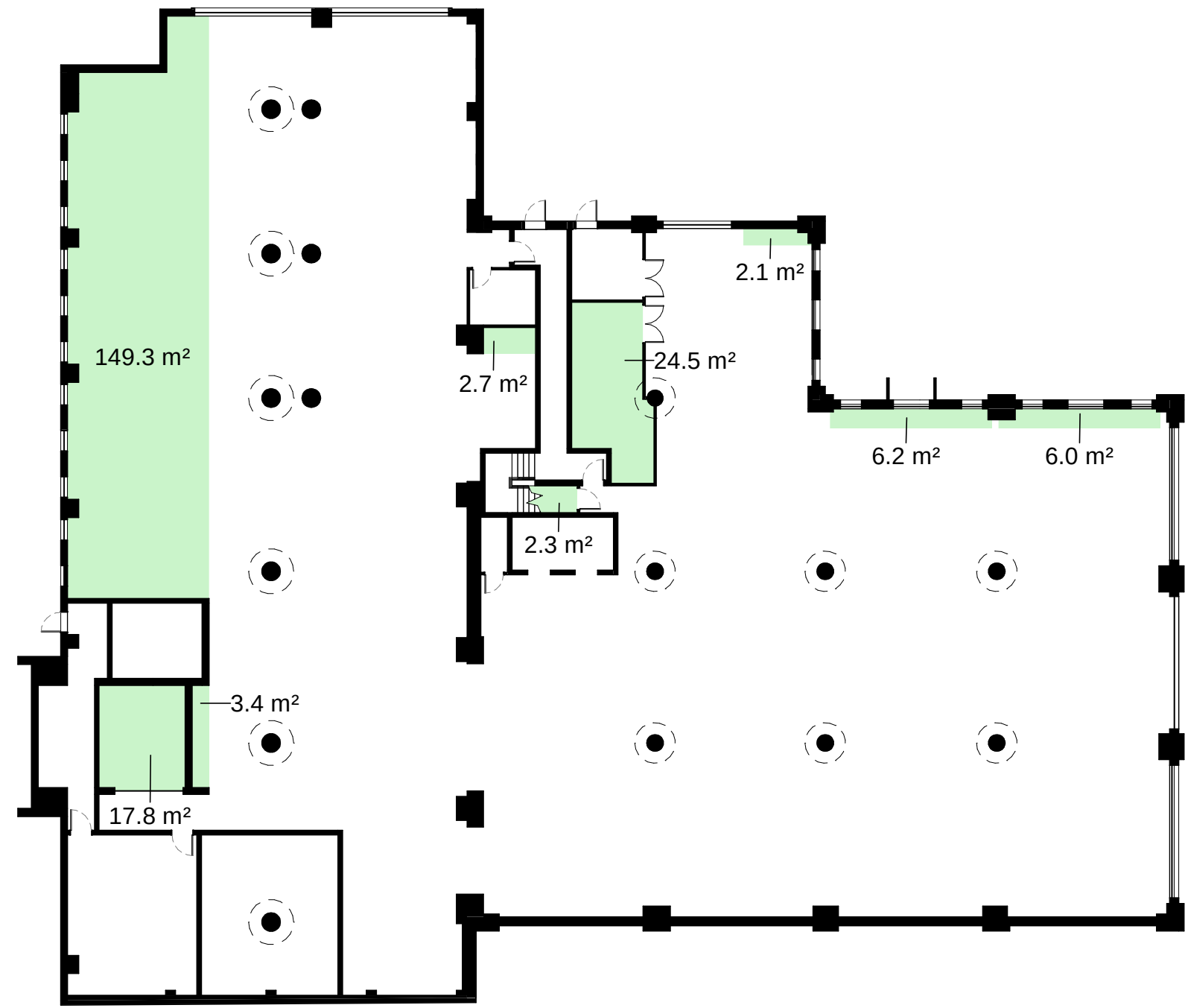
Tanner Kibble Denton Architects Pty Ltd
Gadigal Country
Level 1, 19 Foster Street,
Surry Hills NSW 2010 Australia
T +61 2 9281 4399
www.tkda.com.au



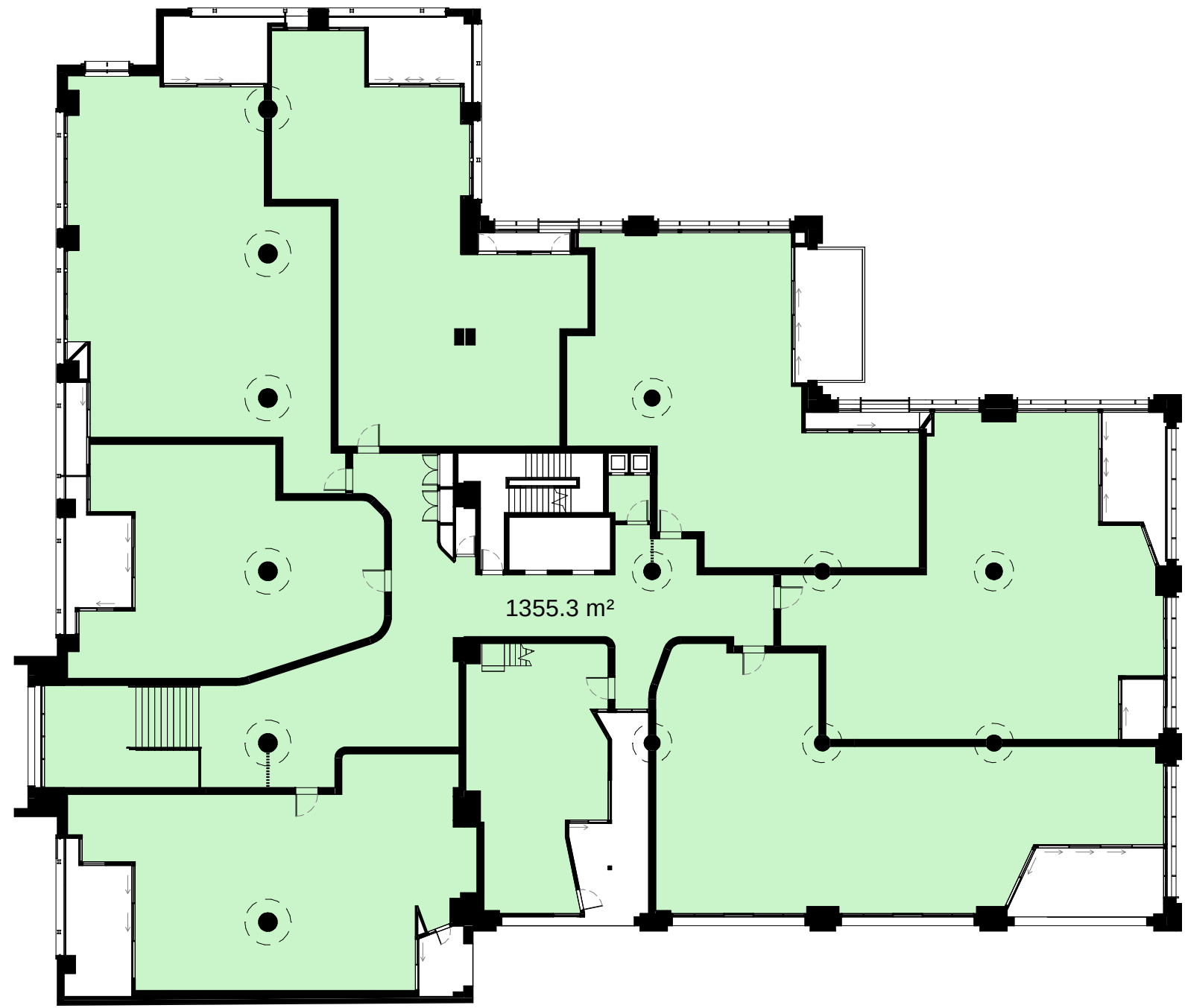
ATTACHMENT 2

AREA SCHEDULE - GFA

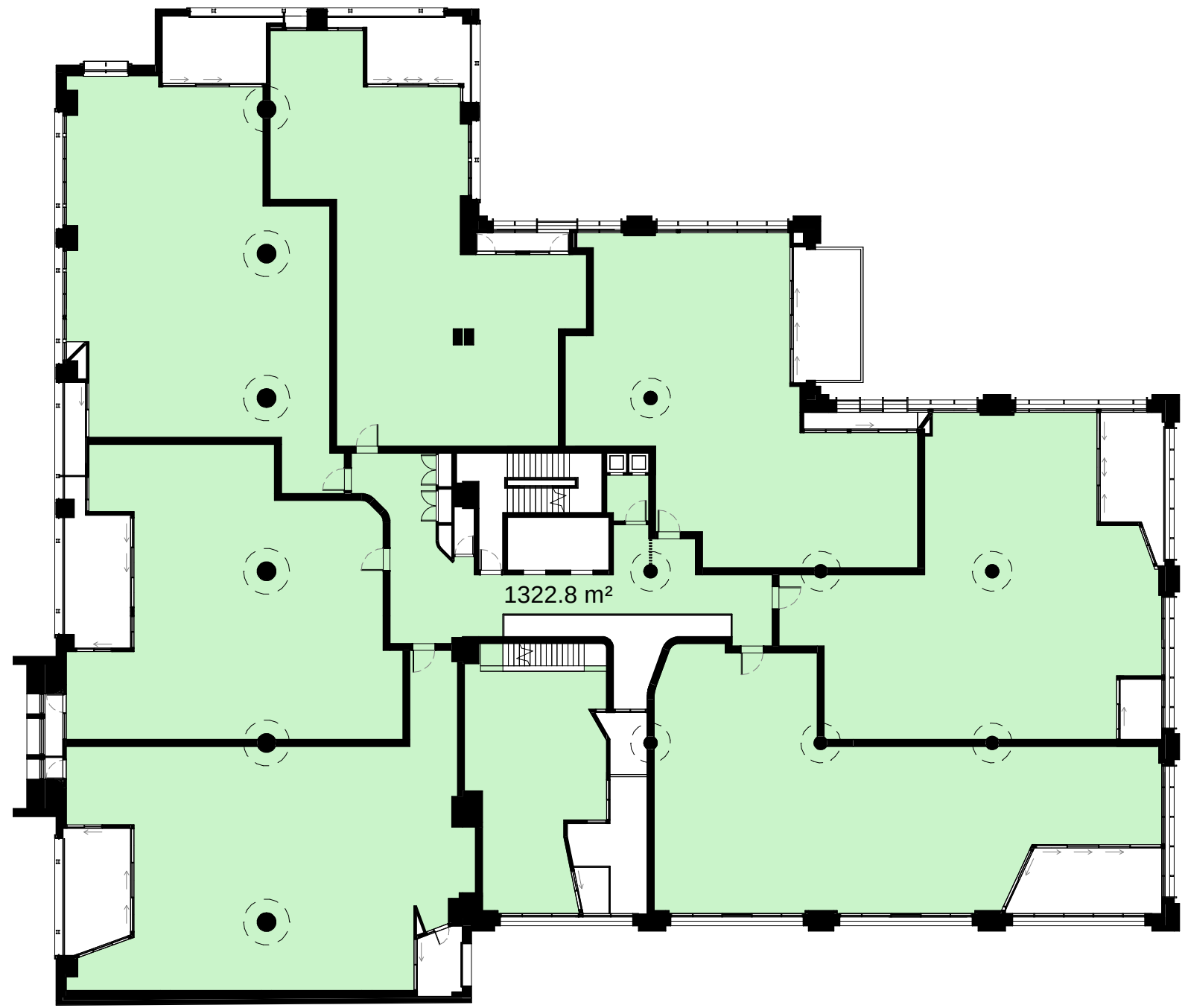
LEVEL	AREA
BASEMENT	214.3 m ²
GROUND FLOOR	1355.3 m ²
LEVEL 01	1322.8 m ²
LEVEL 02	1307.2 m ²
LEVEL 03	888.9 m ²
LEVEL 04	852.1 m ²
TOTAL	5940.6 m ²



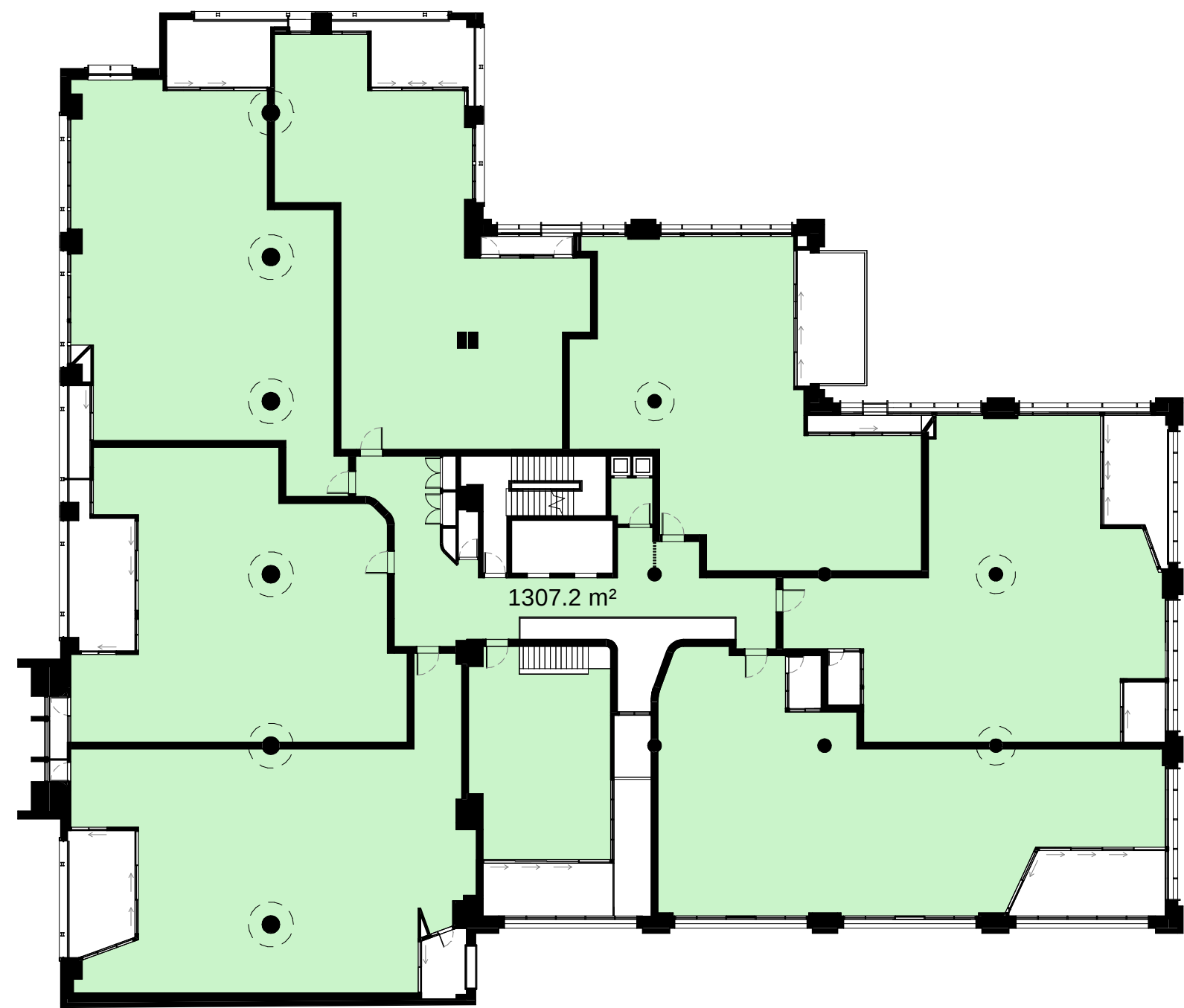
BASEMENT - GFA



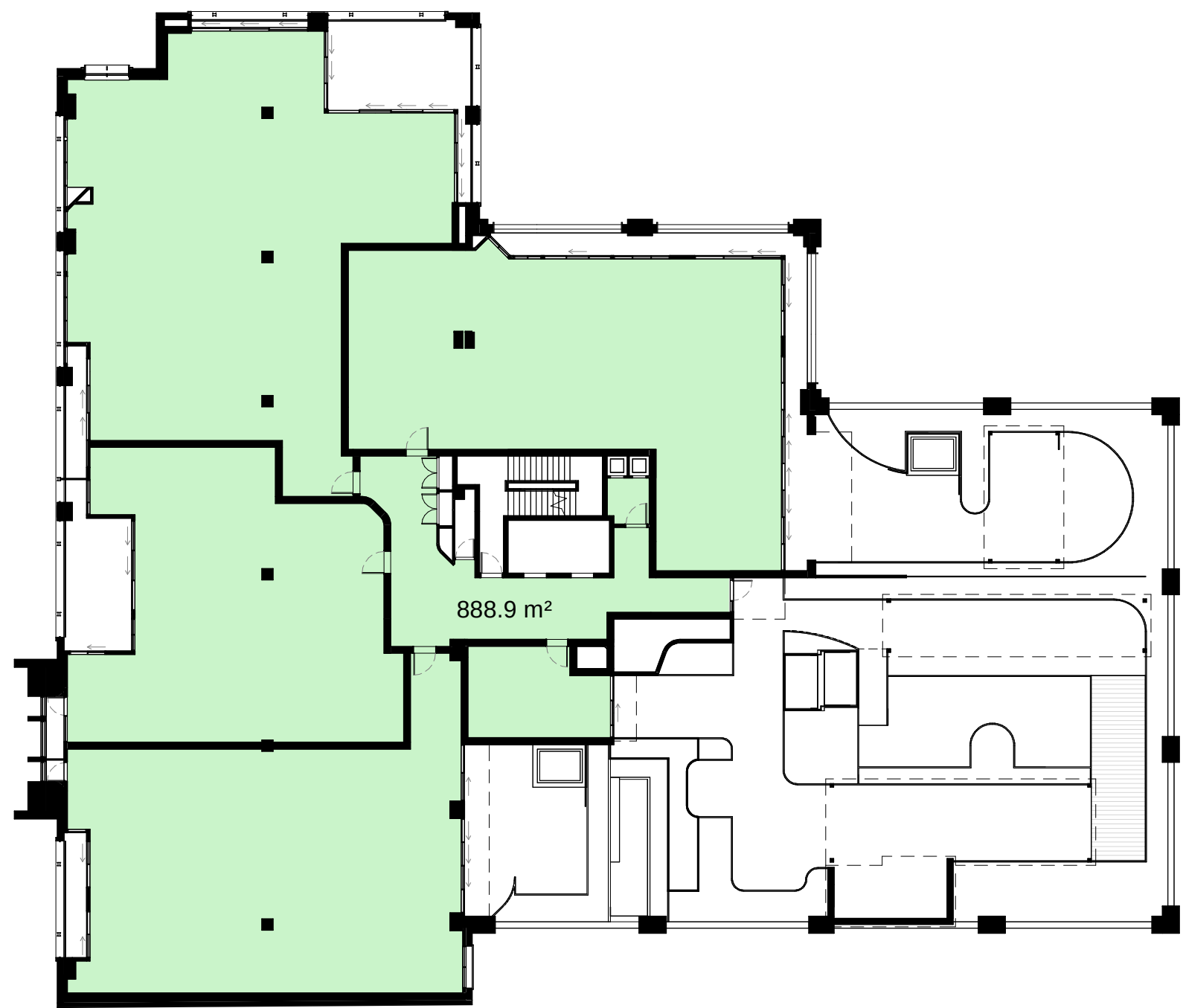
GROUND FLOOR - GFA



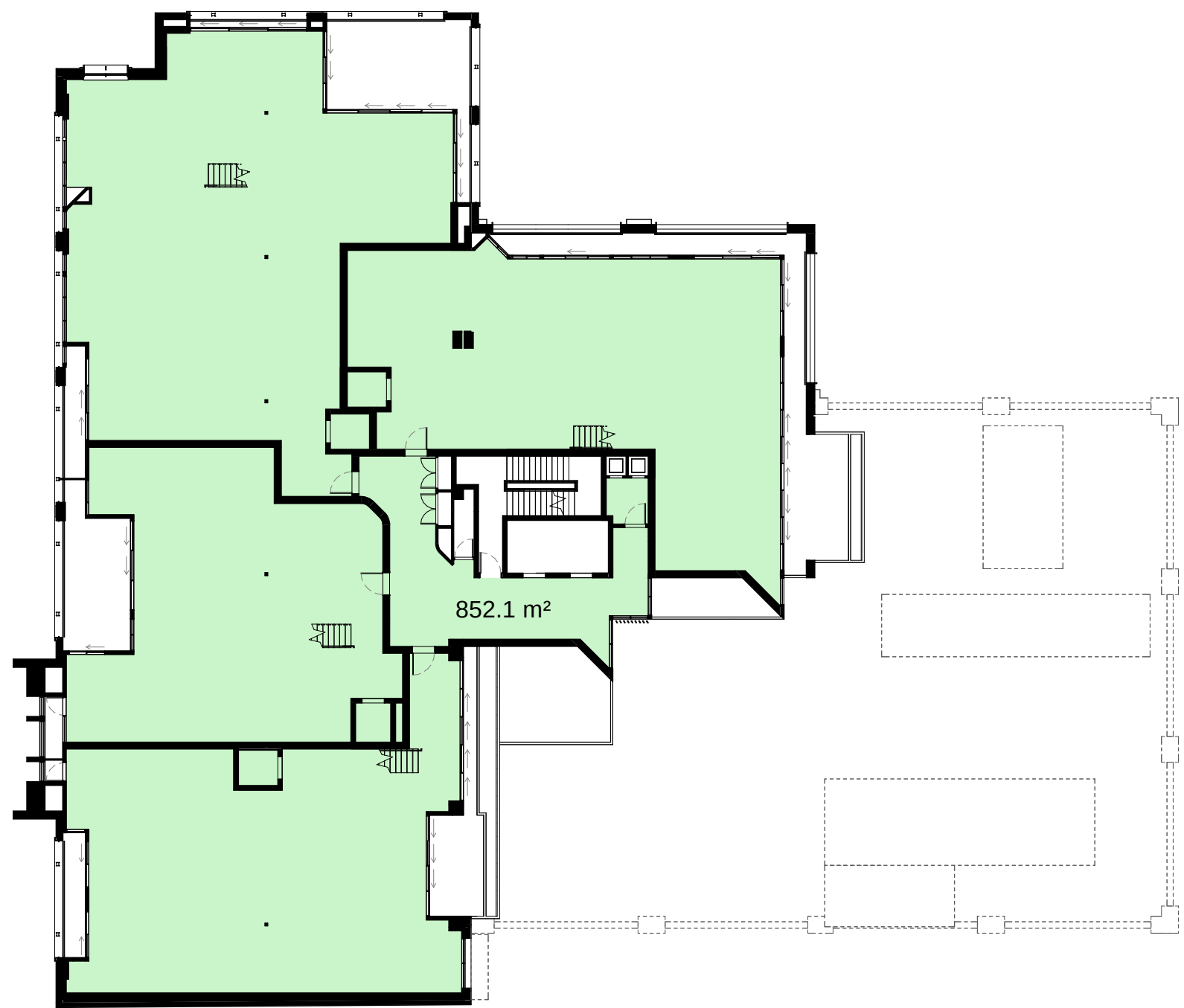
LEVEL 01 - GFA



LEVEL 02 - GFA



LEVEL 03 - GFA



LEVEL 04 - GFA

NSW Nominated Architects: Robert Denton Reg. No. 5782, Alex Kibble Reg. No. 6015
Do not scale drawings. Verify all dimensions on site. Notify architect of all discrepancies

Rev	Date	Description	Chkd	Auth
A	23.09.25	Issue for DA	DE	DE

NOT FOR CONSTRUCTION

Project
431 GLEBE POINT ROAD
REDEVELOPMENT

431 Glebe Point Road
Glebe, NSW 2037

Drawing Title
PROPOSED GROSS FLOOR AREA
PLANS

Proj. Dir	Proj. Arch	Drawn	Sheet
AK	DE	AE/MS	A1

Job No.	Date	Scale
240058	Sep '25	1 : 250

Drawing No.	Revision
-------------	----------

AR DA 8101 A

Tanner Kibble Denton Architects Pty Ltd
Gadigal Country
Level 1, 19 Foster Street,
Surry Hills NSW 2010 Australia
T +61 2 9281 4399
www.tkda.com.au



